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THE  
T R I A L  
OF  
WILLIAM FREND, M.A.  
AND FELLOW OF JESUS COLLEGE, CAMBRIDGE,  
IN THE VICE-CHANCELLOR'S COURT.  
FOR WRITING AND PUBLISHING A PAMPHLET,

INTITLED  
**PEACE AND UNION**  
Recommended to the Associated Bodies of Republicans and  
Anti-Republicans.

---

By JOHN BEVERLEY, M.A.  
AND PROCTOR OF THE VICE-CHANCELLOR'S COURT.

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C A M B R I D G E :  
PRINTED BY F. HODSON, FOR THE PUBLISHER, AND SOLD  
BY J. DEIGHTON, 325, HOLBORN, LONDON; AND  
THE BOOKSELLERS IN CAMBRIDGE.

# ERRATA.

Pag. 12. Line 12 from the Bottom, for *Law Schools* read *Senate House*.

Pag. 24. Line 5 from the Bottom, add *W. No.*

Pag. 28. from the Bottom of the Page dele *Being*, and insert **ELIZABETH**.

Pag. 29. Line 18 from the Top, for *about* read *about*.

In Pages 72 and 74, for *J. Postlethwaite* read *T. Postlethwaite*.

Pag. 82. Line 11. for *will* read *well*.



Pag. 13. Line 13. for *could be read* ~~could~~ *not be*.

Pag. 78. Line 32. for *they read* ~~the~~.

Pag. 85. Line 34. read *earnest and zealous*.



# TRIAL

O F

*WILLIAM FREND, M. A. &c.*

ON Saturday the ninth of February, 1793, the following Advertisement appeared in the Cambridge Chronicle.

" In the Press, and in the course of next week will be published, Peace and Union recommended to the Associated Bodies of Republicans and Anti-Republicans, by William Frend, M. A. Fellow of Jesus College.

On the next Saturday, a second Advertisement appeared, stating, that the Pamphlet was published.

Soon after the Publication, the following Members of the Senate waited upon the Vice-Chancellor at different times, to express their disapprobation of the Pamphlet, and their wish, that such notice should be taken of the Author's offence, as might best declare the censure of the University.

W. Wade, B. D. Fellow of St. John's

Geo. Whitmore, B. D. Tutor of St. John's

T. Kipling, D. D. Dep. Regius Prof. of Divinity

J. Jowett, L. L. D. Tutor of Trin. Hall, and Regius Professor of Civil Law

W. Mathew, L. L. B. President of Jesus

J. Plampin, M. A. Tutor of Jesus

J. Costobadie, M. A.

T. Bayley, M. A. } Fellows of Jesus

T. Castley, M. A. }

J. Mainwaring, B. D. Margaret Prof. of Divinity

P. Douglas, B. D. Tutor of Bene't

T. Lloyd, M. A. Tutor of King's

E. Kilvington, M. A. Fellow of Sidney

E. Outram, M. A. Lecturer of St. John's

B

W.

W. Walker, M. A. Fellow of St. John's  
 A. Frampton, M. A. Lecturer of St. John's  
 R. Belward, M. A. } Tutors of Caius  
 W. Walford, M. A. }  
 E. Bradford, B. D. Tutor of Bene't  
 H. Jowett, M. A. Tutor of Magdalen  
 R. Glynn, M. D. Fellow of King's  
 Jas. Wood, B. D. Tutor of St. John's  
 G. Gordon, B. D. Precentor of Exeter  
 J. Smith, B. D. Tutor of St. John's  
 J. Oldershaw, B. D. Tutor of Emmanuel  
 W. L. Mansel, M. A. Public Orator  
 T. Salmon, B. D. Fellow of St. John's  
 J. Fawcett, B. D. Fellow of St. John's  
 H. Greene, M. A. Fellow of Peterhouse  
 G. King, M. A. }  
 W. Pugh, M. A. } Fellows of Trin. Coll.  
 R. Ramsden, M. A. }  
 R. Tillard, M. A. Fellow of St. John's  
 F. J. H. Wollaston, M. A. Tutor of Trinity Hall, and  
 Jacksonian Professor

In consequence of these applications, the Vice-Chancellor on the fourth of March, desired all the above gentlemen to attend him at his Lodge, where he informed them, that, being called upon by so many respectable persons, he should now think it his duty to proceed against the Author of the Pamphlet, in such manner as might be thought adviseable. • Being asked, "whether he meant in such manner, as might appear adviseable to that Meeting;" he answered, "No; but in such manner as should be adviseable on the whole"—but added, "that he was very ready to hear, what they might think proper to be done;" and left them in the room to consult together. The following Resolution was then unanimously agreed to, and deposited with the Vice-Chancellor.

*Cambridge, Queen's College, March 4th, 1793.*

Resolved by the underwritten persons, Members of the University of Cambridge, that William Frend, Master of Arts, and Fellow of Jesus College, be prosecuted in the Vice-Chancellor's Court, for having publicly and notoriously offended against a Grace passed by the Senate of this University in the year 1603: and that the following gentlemen be a Committee to manage the said Prosecution, viz. Dr. Kipling, Dr. Jowett, The Margaret Professor of Divinity,

Divinity, The Public Orator, and the Reverend Mr. Belward, Fellow of Caius College.

T. Kipling	Geo. Whitmore	G. King
J. Jowett	W. Mathew	T. Lloyd
J. Mainwaring	E. Bradford	R. Ramsden
W. L. Mansel	J. Oldershaw	A. Frampton
R. Belward	W. Walford	E. Kilvington
	W. Wade	E. Outram
	J. Plamplin	R. Tillard
	H. Jowett	W. Pugh
	J. Smith	W. Walker
	J. Costobadie	F. J. H. Wollaston
	J. Wood	Wm. Easton
	Thos. Salmon	W. Wilson
	H. Greene	

On the Friday following, the five gentlemen, who had been desired to undertake the management of the prosecution, met to draw up an Accusation against Mr. Frend, to be lodged with the Vice-Chancellor. But, on considering the forms and precedents of the Vice-Chancellor's Court, they found, that it had not been usual for the Accuser to dictate to the Court, under what *particular* statute the offender should be punished. It was therefore thought necessary, that they should call a second general Meeting; which was accordingly done: and on the eleventh of March, the following Resolution passed unanimously.

*Cambridge, 11th March, 1793.*

“Agreed, that the following words in the Resolution made last Monday, viz, “against a *Grace* passed by the “Senate of this University, in the year 1603” be rescinded, and that in lieu of them be substituted these words, viz. “against the *Laws* of the University”

T. Kipling	Geo. Whitmore	F. J. H. Wollaston
J. Jowett	Wm. Easton	G. King
J. Mainwaring	Henry Jowett	G. Gordon
W. L. Mansel	W. Mathew	W. Wilson
R. Belward	W. Walford	H. Greene
	E. Bradford	T. Lloyd
	J. Oldershaw	R. Ramsden
	W. Wade	A. Frampton
	J. Costobadie	E. Kilvington
	J. Smith	W. Walker
	P. Douglas	W. Pugh
	J. Wood	E. Outram
	T. Salmon	



On a subsequent day the Managers of the Prosecution drew up an Accusation against Mr. Frend; which was delivered to the Vice-Chancellor: Dr. Kipling requested at the same time, that Mr. Frend might be summoned into the Vice-Chancellor's Court, to answer to the Charge.

Mr. Frend was accordingly summoned to appear in the Vice-Chancellor's Court, to be held in the Law-Schools, on Friday the third of May, at ten o'clock in the forenoon.

The following account of the proceedings of the Court is copied from the original minutes taken by the Registry:

At a Court holden before the Right Worshipful Isaac Milner, D. D. Vice-Chancellor of the University of Cambridge, and John Smith, Richard Farmer, William Colman, Lowther Yates, John Barker, Joseph Turner, Francis Barnes, William Craven, and Thomas Postlethwaite, Doctors in Divinity, and John Fisher, L. L. D. his Assessors, between the hours of ten and one, on Friday the third day of May, 1793, in the Law Schools of the said University.

Me present.

GEO. BORLASE,

Not. Publ. and Registr.

The Office of the Judge  
promoted  
by Thos. Kipling, D. D.  
against  
William Frend, M. A. and  
Fellow of Jesus College.

On which day a summons, heretofore issued against William Frend, M. A. and Fellow of Jesus college, was returned by John Beverley, Esquire Bedel, who made oath, that the same had been personally served on the said William Frend.

Mr. Frend appeared, and the Court was adjourned to the Senate House.\* Dr. Colman appeared at the adjourned court. When and where, Mr. Frend excepted to the court, as in the following paper, purporting to be a renunciation of the jurisdiction of the said court; which paper he read and signed in the presence of the Registry, who attested the same, and delivered it to the Vice-Chancellor.

\* This Adjournment was made, as the Law Schools were too small to contain the audience.



“ MR. VICE-CHANCELLOR,

“ I desire leave, before my Accuser enters on his office, to offer a few things, in the way of objection to the mode of trial, adopted by him, and authorised by you. They will, I hope, be found not unworthy of your attention.

“ I acknowledge the receipt of a citation from you, to attend in this place at this hour, and my presence here is intirely owing to that circumstance: but I wish it to be considered, as proceeding more from civility and respect, than duty or obligation. The reason of which distinction will be obvious from what I am going to alledge.

“ My Accuser charges me with the publication of a pamphlet, entitled “ Peace and Union recommended to the associated bodies of Republicans and Anti-Republicans,” and by such publication, with impugning religion, as established by public authority within this realm, and also all ecclesiastical ranks and dignities; and by such impugning, with having violated the laws and statutes of this University, particularly the statute “ *De concionibus*.”

“ Now the violation of the statute “ *De concionibus*” being made the principal charge against me, I apprehend, that I ought not to have been cited to appear in the Vice-Chancellor’s court, but before the Vice-Chancellor, and a majority of the Heads of Colleges, all offences against that statute being made cognizable by him and them jointly; and that there is no instance of any person being cited to appear here for such an offence. The difference between the Vice-Chancellor’s court, and a meeting of the Vice-Chancellor and a majority of the Heads of Houses, I suppose to consist in the following particulars:

“ 1. The Vice-Chancellor’s court subsists by antient custom, and charters confirmed by an act of parliament, and ought to be held at stated times, for the purpose of receiving complaints, and hearing and determining causes. Whereas the other meeting derives its existence and authority wholly from Queen Elizabeth’s statutes, and from the nature of it, can only be occasionally assembled, in the same manner, that the same or other persons meet occasionally in the Senate or other place, for the execution of other parts of the same statutes.

“ 2. The Vice-Chancellor’s court is a court of record, from which no appeal can go to any of the courts in Westminster-Hall, but only to the Senate of the University.—Whereas, I apprehend, that no appeal can go to the Senate from a determination of the Vice-Chancellor and Heads, acting under the statute “ *De concionibus*,” though  
such

such determination, like that of a Mayor and Aldermen in any civil corporation, may be liable to a review in the Court of King's Bench.

"3. The Vice-Chancellor sitting in his court, possesses the power of punishing all offences, cognizable in it, without the concurrence of a majority of the Heads of houses, such concurrence being in no case necessary to punish, but only to punish in a particular manner.—Whereas, in the exercise of the power given in the statute "*De concionibus*," such concurrence is in every step made absolutely necessary.

"4. The immediate object of a citation into this court is punishment; whereas the immediate object of a citation, before the Vice-Chancellor and a majority of the Heads under the statute "*De concionibus*," is not punishment, but the revocation of error.

"5. There is no pretence from the statute, nor from any practice under it, for the appointment or allowance of a Promoter, such office being peculiar to ecclesiastical courts.

"6. The Vice-Chancellor has undoubtedly in his court the power of compelling evidence, and that upon oath, neither of which can, I suppose, be done by him and a majority of the Heads, assembled for the purpose of enforcing the statute "*De concionibus*."

"For these reasons, at least till stronger ones to the contrary shall be alledged, I think myself obliged to renounce the Jurisdiction of this court, and do hereby renounce such Jurisdiction, so long as the violation of the statute "*De concionibus*" is made the principal or any part of the charge against me. And, though I should in the first instance have willingly submitted to answer for any supposed breach of that statute, before the Vice-Chancellor and a majority of the Heads of Houses, or before the Vice-Chancellor in this court for the breach of any other law of the University properly cognizable in it, I now desire time to be advised, whether having been wrongfully cited to appear in this court, on a supposed offence against that statute, with the acquiescence at least, if not the approbation of the Heads of Colleges, I am any longer liable to a trial for the same offence, either before the Vice-chancellor and Heads under the statute so often mentioned, or to the Vice-chancellor alone, under any other law and statute of the University.

W. F R E N D."

Signed by W. F R E N D, in the presence of me

G E O. B O R L A S E,

Not. Publ. and Registry.

The

The Vice-Chancellor, after deliberating with the Assessors, pronounced for the Jurisdiction of the court: and ordered Dr. Kipling to bring forward his charge. Mr. Frend desired, that the renunciation might be entered on the records of the court, and that the Grace "*Cum Statutis Academiae*," Oct. 24, 1609, might be read, part of which was read by Mr. Frend—The Vice-Chancellor objecting to the reading the whole at that time, and saying it might be read in the course of his defence.

Dr. Kipling desired that the charges might be exhibited in writing; which was allowed: and the said charges or articles were read; and a copy of the same was ordered by the Vice-Chancellor to be delivered to Mr. Frend, and was so delivered.

### A R T I C L E S.

*University of Cambridge, May 3, 1793.*

In the name of God, Amen. We Isaac Milner, Doctor in Divinity, Vice-Chancellor of the University of Cambridge, and Judge of the Court of the Chancellor, Masters and Scholars, of the said University, lawfully constituted and appointed; To you William Frend, Master of Arts, and one of the Fellows of Jesus College, in this University, Do give and minister all and singular the Articles, Heads, or Interrogatories under-written, for certain crimes and offences, said by you to have been committed; but more especially for having written, published, and caused to have been dispersed, within the said University, a Book or Pamphlet, intitled "Peace and Union recommended to the associated Bodies of Republicans and Anti-Republicans; by William Frend, M. A. Fellow of Jesus College, Cambridge. Printed for the Author, by P. C. Croft, St. Ives, 1793, (price one shilling)." In which said Book or Pamphlet, Religion, as established by public authority within this realm, and also all Ecclesiastical Ranks and Dignities, are impugned. At the Promotion of the Reverend Thomas Kipling, Doctor in Divinity, and a Member of this University. And We do object and article as follows: (that is to say)

In the first place, We article and object to you, the aforesaid William Frend, that the University of Cambridge was founded and endowed, and by an Act of Parliament made in the thirteenth year of the reign of Queen Elizabeth, was incorporated by the name of the Chancellor, Masters, and Scholars of the University of Cambridge, for



for the maintenance of good and Godly Literature, and the virtuous education of Youth, within the said University: And moreover, that the Letters Patents granted to the Chancellor, Masters, and Scholars of the University of Cambridge, in the third year of the reign of our then Sovereign Lady, Queen Elizabeth, and all other Letters Patents granted to the said University, by any of the Progenitors or Predecessors of our said Queen, were, by the said Act of Parliament, declared to be thenceforth good, effectual, and available in Law, to all constructions and purposes; and We object and article the premises jointly and severally, and every part thereof.

2. Also, We article and object to you, the aforesaid William Frend, that in this present year of our Lord, one thousand seven hundred and ninety-three, you did publish, and cause to be dispersed, within this University, a scandalous Book or Pamphlet, of which you are the Author, intitled "Peace and Union recommended to the associated Bodies of Republicans and Anti-Republicans; by William Frend, M. A. Fellow of Jesus college, Cambridge. Printed for the Author, by P. C. Croft, St. Ives, 1793;" which said Book or Pamphlet is annexed to these presents, and prayed to be admitted as if inserted herein; and we article and object as above.

3. Also, We article and object to you the aforesaid William Frend, that in the twenty-ninth page of the aforesaid Book or Pamphlet, you have defamed the public Liturgy of the established Church, by affirming that "it is very far from that standard of purity in doctrine, which is required in such compositions;" and we article and object as above.

4. Also, We article and object to you the aforesaid William Frend, that in a paragraph contained in pages 36, 37, 38, of the aforesaid Book or Pamphlet, beginning at the words "The same passions," and ending with the words "Episcopal Convocations," you affirm, that the public worship of the great Body of Christians is *idolatrous*; including in this charge the Members of the Church of England, as evidently appears from the context; and we article and object as above.

5. Also, We article and object to you the aforesaid William Frend, that in the thirty-ninth page of the aforesaid Book or Pamphlet, you have asserted, that "ecclesiastical Courts, ecclesiastical Ranks and Titles, are all repugnant to the spirit of Christianity;" and we article and object as above.

6. Also



6. Also, We article and object to you the aforesaid William Frend, that you have profanely reviled and ridiculed the most sacred offices of Religion, as enjoined by the Church of England, and performed by its Ministers, in the following passage, contained in the thirty-ninth and fortieth pages of the aforesaid Book or Pamphlet, (that is to say) " The Laity, like brute beasts, sit tamely under this usurpation: a man, if a priest or minister enters, is not a master of his own house, he must not thank God for the blessings of Providence at his own table, he cannot pledge his faith to a lovely woman without the interference of the Priest, his offspring must be sprinkled by sacred hands, and at death, he is not committed to his long home, without another spiritual incantation.

p. 54, 55

" These superstitious prejudices are, without doubt, highly beneficial to the interest of the clerical community, but the morals of neither party are consulted. The Laity are apt to imagine, that there are some practices, in which they may be indulged without any imputation on their christian character; and the gentleman in black is supposed to put on a particular set of features and behaviour with his cloaths;" and we article and object as above.

7. Also, We article and object to you the aforesaid William Frend, that at the time of publishing the aforesaid Book or Pamphlet, you was a Master of Arts, and Member of this University; and that you now are a Master of Arts and a Fellow of Jesus College, in this University, and therefore notoriously subject to the Jurisdiction of this Court; and we article and object as above.

8. Also, We article and object to you the aforesaid William Frend, that by the laws and statutes of this University, particularly by the forty-fifth statute, intituled "*De concionibus*;" and by a decree passed in the Senate of this University, on the ninth day of June, one thousand six hundred and three, it is ordained and provided, that all and every person or persons, impugning Religion, as by law established within this realm, or impugning ecclesiastical Ranks and Dignities, may, and ought to be proceeded against and punished, by suspension from academical degrees, by expulsion, or by banishment; and we article and object as above.

9. Also, We article and object to you the said William Frend, that of and concerning the premises, complaint hath been, and is rightly and duly made, by this party promovent, to this Court and the Judge thereof.

C

Wherefore

Wherefore the party, promoyent in this cause, prayeth Right and Justice to be done, and administered to him effectually; and that the said William Frend, in regard to his great rashness and presumption in the premises, may be duly corrected and punished as the Law requires.

The first article the defendant denied, so far as concerns the cause in question: which denial was over-ruled by the Court. Mr. Frend asked the Vice-Chancellor whether it was over-ruled with the concurrence of the Heads. The Vice-Chancellor declared, it was over-ruled, and is now over-ruled with the concurrence of the Heads.

The second article was then read, and Dr. Kipling proposed to call witnesses. Mr. Frend objected to the calling any witnesses, until the *secundus dies juridicus*, and read part of the Grace, "*Cum Statutis, &c.*" beginning at the words, "*Secundo die juridico*," to the words, "*per reum datus*," and required time to answer according to the statutes. The Vice-Chancellor declared, that the demand made by Mr. Frend, as founded on the grace aforesaid, was not good; nevertheless he judged it reasonable to allow him time to prepare himself: and accordingly adjourned the Court to be holden at the Senate-House, on Friday the 10th inst. at ten o'clock in the morning, and warned Dr. Kipling and Mr. Frend then and there to appear.

## SECOND COURT DAY.

At a Court holden before the Right Worshipful Isaac Milner, D. D. Vice-Chancellor of the University of Cambridge, and John Smith, Richard Farmer, William Colman, Lowther Yates, John Barker, Joseph Turner, Francis Barnes, William Craven, and Thomas Postlethwaite, Doctors in Divinity, and John Fisher, L. L. D. his Assessors, between the hours of ten and one, on Friday the tenth day of May, 1793, in the Law Schools of the said University.

Me present.

GEO. BORLASE,

Not. Publ. and Registr.

The Office of the Judge

promoted

By Thos. Kipling, D. D.

against

William Frend, M. A. and

Fellow of Jesus College.

On the opening of the Court, the Judge asked Mr. Frend, if he was now ready to answer to the charges laid against him.— Mr. Frend declared, that he did not come with the idea

of answering to the Charges this day; but that he was ready

ready to act according to the Laws of the University, and referred again to the Grace, passed Oct. 24, 1609. On which the Vice-Chancellor said, that as Mr. Frend on the last Court Day urged the necessity of adhering strictly to the Grace of Oct. 24, 1609, and according to his own explanation of what is there stated; He thought it expedient now to explain his ideas concerning the meaning and authority of it.

The Vice-Chancellor then gave his reasons at large, in support of the present proceedings, and explained, according to the best of his judgment, in what sense this Grace is to be considered as obligatory, and in what sense its authority could be admitted.—He said, this Court had unquestionably authority to proceed more or less summarily; and in the present instance, he did not perceive the shadow of a reason for departing from the usual practice. He added, that he was ready to listen with the utmost attention and patience, as long as any thing could be advanced on either side. His object was to do substantial justice, and he exhorted both the Accuser and the Accused, to use no unnecessary delay.

Question from Mr. Frend. Whether the Judge meant to proceed according to the statute "*De concionibus*" simply, or whether that statute made a part of the law, under which the Judge was now proceeding?

Answer. I certainly consider myself as not acting under that statute separately, but as part of the law on which I mean to proceed.

Question from Mr. Frend. Whether the Judge said this from his own authority, or with the assent and consent of the Heads?

Answer. I do not think it necessary to answer that question repeatedly.

Mr. Frend protested against the Court now proceeding; as he said, there was not now present with the Vice-Chancellor, a majority of the Heads, and therefore, he could not proceed to take the Examination of Witnesses, on Oath, as long as the statute "*De concionibus*" is made a part of the statutes on which the accusation is founded.

Dr. Kipling read the Second Article, and the Vice-Chancellor asked Mr. Frend whether he admitted or denied the same?

Answer. That he had before generally denied them all, asserting them to be false, wicked, and malicious.

Witnesses were then called on the part of the Promoter.



HARVEY ALGER

Sworn, and (a Pamphlet being put into his hand by Dr. Kipling) deposed as follows:

Dr. Kipling. Did you ever see that book before?

Witness. Yes.

Dr. K. Did you purchase it of any One?

W. Yes.

Dr. K. Of whom?

W. Of Mr. Lunn the Bookseller.

Dr. K. About what time?

W. On Friday the 19th of April, 1793.

Dr. K. Who delivered that book into your hands?

W. Mr. Lunn's Journeyman.

Dr. K. How do you know that to be the very Book, you received from Mr. Lunn's Journeyman?

W. By having marked it on the cover, and by an L. for Lunn.

Dr. K. Did you make these marks before you delivered the Book out of your hands?

W. Yes.

Dr. K. Can you say on your oath, that it is the very Pamphlet you delivered into my hands the last Court-Day?

W. Yes.

Dr. K. How do you know it to be the very same?

W. By the letter L. which I know to be my handwriting.

Dr. K. Did you look at the letter L. particularly, when you delivered the Book into my hands, on the last Court-Day?

W. I did.

Dr. K. Did you look at it again particularly, when I returned it to you?

W. I did.

Dr. K. Had it been in possession of any person besides yourself, since the last Court Day?

W. No.

Question from the Court. Where does Mr. Lunn live?

W. In Trumpington-street.

Q. Can you read?

W. Yes.

Witness was ordered to read the title of the said Pamphlet, and read as follows:—"Peace and Union Recommended to the Associated Bodies of Republicans and Anti-Republicans; by William Frend, M. A. and  
"Fellow



"Fellow of Jesus College, Cambridge. Printed  
for the Author, by P. C. Croft, St. Ives, 1793,  
(price one shilling)."

Dr. K. Did you deliver the same book into my hands  
this morning, when I came into Court?

W. Yes.

Mr. FRENCH Croft-Examined the said Witness.

Q. Are you not Dr. Kipling's servant?

W. I am.

Q. For whom did you purchase this book?

W. For Dr. Kipling.

Q. With what intention?

W. By Dr. Kipling's desire.

Q. When did you make the two marks?

W. I made them before I took the book to Dr. Kipling.

Q. Why was you induced to make those marks and  
letter, before you gave the book to Dr. Kipling?

W. By Dr. Kipling's order.

Q. How long did it remain in Dr. Kipling's possession  
after the first delivery?

W. About two days.

Q. Who delivered it into your possession at the end of  
the two days?

W. Dr. Kipling.

Q. For what purpose did Dr. Kipling deliver it to  
you?

W. He desired me to lock it up.

Q. Did Dr. Kipling assign any reason for its being  
locked up?

W. No.

Q. Did you keep it locked up?

W. I did.

Q. With what intention did you keep it locked up?

W. With no other intention than by Dr. Kipling's  
order.

Q. By whose order did you take the Book from the  
place where it was locked up?

W. By Dr. Kipling's order.

Q. Did you bring the book to court the last Court  
Day by Dr. Kipling's order?

W. Yes.

Q. Was this book produced in Court?

W. I gave it to Dr. Kipling in the Senate-House-Yard  
before I came into Court; but cannot say what became of it  
after.

Q. Why

**Q.** Why could not this Book be out of your possession between the last Court Day and this?

**W.** Because I locked it up as soon as I went home, and have had the key in my possession ever since.

**PHILIP LIFE Sworn.**

**Dr. Kipling.** Do you know the last witness, my servant?

**Witness.** I know him by sight.

**Dr. K.** Do you recollect ever delivering to that servant a Pamphlet, intitled "Peace and Union, &c. by William Frend, M. A."?

**W.** I do.

**Dr. K.** Do you recollect about what time you delivered it to him?

**W.** I do not.

**Dr. K.** Can you say from whence that Pamphlet came, which you delivered to my servant?

**W.** I cannot.

**Dr. K.** Did you ever receive any Copies of the Pamphlet, intitled "Peace and Union, &c." from Mr. Frend himself?

**W.** I did.

**Dr. K.** How many Copies?

**W.** Twenty Copies.

**Dr. K.** On what Day?

**W.** On the 3d of April last.

**Dr. K.** Had Mr. Lunn any Copies of this Book at that time unfold?

**W.** Not that I know of.

**Dr. K.** Did Mr. Lunn, to your knowledge, procure any Copies of this Pamphlet, from any other Quarter, between the 3d and 19th of April last?

**W.** Not that I know of; at least I did not go for any.

**Dr. K.** At what Place did you receive those twenty Copies of the Pamphlet from Mr. Frend?

**W.** At Mr. Frend's Room in Jesus College.

**Dr. K.** Why did you go thither for any Copies of the Pamphlet?

**W.** I applied to Mr. Bowtell for some Copies, but he had none. Mr. Bowtell told me that Mr. Frend had them all.

**Dr. K.** Was you directed by Mr. Lunn to go to Mr. Bowtell for some Copies?

**W.** I was.

**Dr. K.** What

Dr. K. What did you say to Mr. Frend, when you first went to Mr. Frend's Chambers?

W. I cannot exactly say what the Words were—the purport of them was, that Mr. Lunn presented his compliments to Mr. Frend, and having sold all the Copies of his Pamphlet which he had, would thank him for 50 Copies more.

Dr. K. Do you recollect, whether you asked Mr. Frend for Copies of his Pamphlet?

W. I do.

Dr. K. Did Mr. Frend make any answer to you on the occasion, and what?

W. As near as I can recollect, Mr. Frend said, that he did not think he had fifty Copies, but that Mr. Lunn should have all he had.

Dr. K. What did Mr. Frend do immediately after this?

W. When I went to Mr. Frend's Rooms, he was not in them. Some little time afterwards, I saw him standing in the Court; when I went to him, and delivered the message I have repeated: I then went with Mr. Frend to his rooms, when he delivered to me 20 Copies of the Pamphlet, intitled “Peace and Union.”

Dr. K. What did you do with these 20 Copies?

W. I brought them home to Mr. Lunn's shop.

Dr. K. You mentioned to Mr. Frend, that Mr. Lunn had sent you for more Copies of the Pamphlet, because Mr. Lunn then had none remaining unsold in his shop. Was this a part of Mr. Lunn's message or not?

W. As near as I can recollect, it was.

The REV. THOs. LLOYD, M. A. was then called.

Mr. Frend objected to his Evidence, and desired that his Objection might be recorded by the Registry.

### OBJECTION.

I ask the Court whether a Person concerned in the Prosecution, may be a Witness in the Cause?—Because Mr. Lloyd, now standing in this Court, was one of the Twenty-Seven, or of the number which assembled at the Vice-Chancellor's Lodge, and there entered into certain Resolutions respecting this Cause; by which Resolutions Dr. Kipling, Dr. Jowett, Mr. Mantel, Mr. Belward and Mr. Mainwaring, were appointed Managers, (as he, Mr. Frend, understands) to carry on in their names, this Prosecution.

A Copy



A Copy of which Resolutions, he (Mr. Frend) requested Dr. Kipling to send him. But he (Dr. Kipling) returned word in his first answer, in writing, that he had them not.—Mr. Frend sent a second note to Dr. Kipling, to desire to know by what means he (Mr. Frend) might procure a Copy of these Resolutions. He returned him (Mr. Frend) for answer in writing, that they were in the possession of the Vice-Chancellor.—He (Mr. Frend) wrote between the hours of twelve and one of that day, to the Vice-Chancellor, and receiving no answer from him, he wrote again between the hours of five and six, requesting that as his interests were much involved in those Resolutions, he might be favoured with a copy of them.—Between the hours of seven and eight, the Vice-Chancellor sent him word in writing, that he did not think himself authorized to comply with his (Mr. Frend's) request. He now again makes his request, considering the Production of that Paper as necessary in the Prosecution of this Cause, and being fully convinced (whether those Resolutions are to any purpose or not in themselves) that a very bad use has been made of them by the Twenty-seven, to prejudice him in the eyes of the public, and of the University.

The Court asked Dr. Kipling, whether he chose that the Resolutions should be shewn to Mr. Frend.—Dr. Kipling declared he had no objection.

In answer to Mr. Frend's objection to Mr. Lloyd's Evidence (on account of his being one of the number, which had signed the Resolutions) the Court thought the evidence to be competent; but determined that as he was one of that number, they thought it their duty to receive his Testimony with caution.

MR. LLOYD was then Sworn,  
and deposed as follows:

Dr. Kipling. What Pamphlet is that you hold in your hand? (Mr. Frend objected to the Question, but the Court admitted it.)

Witness. A Pamphlet, entitled "Peace and Union," by Wm. Frend, Fellow of Jesus College.

Dr. K. Did you purchase it or was it given to you?

W. I purchased it.

Dr. K. Of whom?

W. Of Mr. Lunn the Bookseller.

Dr. K. Did you purchase it before the 3d of April or after?

W. After that date.

Dr. K. How



Dr. K. How long after that date?

W. On Thursday the 18th of April.

Dr. K. Can you say upon your oath, that it is the very pamphlet you bought in Mr. Lunn's shop?

W. I can.

Dr. K. Did you receive it from Mr. Lunn himself, or his Foreman?

W. From his Foreman.

The Witness cross-examined by Mr. Frend.

Mr. F. Was there any agreement between you and the Promoter, to appear here with a Pamphlet?

W. I was asked by Dr. Kipling, if I had any objection to appear, and had none.—The same principle that led me to petition for a prosecution, led me also to take the part I now do, in it.

(The Question being repeated by Mr. Frend).

Ans. I had no objection to purchase a Pamphlet, for the express purpose of appearing here against Mr. Frend, and to bring home the charge against him.

Q. Was there any agreement between you and Dr. Kipling concerning purchasing, keeping, and exhibiting a Pamphlet before this Court?

W. Dr. Kipling suggested to me, to take every proper method for identifying the Pamphlet, and qualifying myself as a witness on this occasion.

Q. Was you one of the twenty-seven, or a greater or less number, who had met at the Vice-Chancellor's and entered into certain Resolutions respecting this Cause?

W. I have the honour to be of that number, and I thank Mr. Frend for making it known.

Q. Did you vote for Dr. Kipling being Chairman, in that meeting?

W. I did.

Dr. K. Did you debate on the mode of prosecution?

W. The plan was not finally settled on that occasion, there certainly was a debate.

Q. By whose direction did you go to the Vice-Chancellor's Lodge on that day?

W. I think it was in consequence of a message from Mr. Vice-Chancellor, I am not very positive, but believe it was.

Q. Did you vote for the five Managers?

W. I do not think it came to a regular voting.

Q. Were they nominated?

W. Their names were mentioned.

Q. Was there any question of depriving Mr. Frend of his property at that meeting?

W. I rather think it was hinted by some person present, that a prosecution might go to that, but that it was not a necessary consequence. The question was, whether the College might not, on account of the University prosecuting, proceed to exclude him from his fellowship; but I do not pretend to be accurate.

Q. Was it not said, that to deprive Mr. Frend of his property was a matter of comparatively small moment?

W. I do not recollect that remark.

PHILIP LIFE called again.

Dr. Kipling. Do you recollect a Pamphlet being sold to Mr. Lloyd, entitled "Peace and Union"?

Witness. I do.

Dr. K. Do you recollect whether it was sold after the 3d of April or before?

W. I think after.

Question from the Court. How come you to recollect selling that Pamphlet to Mr. Lloyd?

W. By Mr. Lloyd writing his name on it.

Q. (Being shewn a Pamphlet) Is this the same?

W. It is like it, but I am not sure it is the same; I have no circumstance fixed in my memory, which will enable me to say with certainty, that the pamphlet was really sold to Mr. Lloyd after the 3d of April; and do not remember that it was dated; the Pamphlet being dated, is the sole circumstance which leads me to suppose it was sold then.

The same Witness cross-examined by Mr. FREND.

Q. Why do you remember the day, on which you have said you came to my room?

W. Because I gave Mr. Frend credit for 20 Copies, in Mr. Lunn's Ledger.

Q. By whose instructions did you take the memorandums in your hand?

W. By Mr. Lunn's.

HARVEY ALGER called again and examined

by Dr. KIPLING.

Dr. Kipling. Are you in possession of a Copy of the Pamphlet, entitled "Peace and Union, by Mr. Frend"?

Witness. I am.

Dr. K. Where did you purchase it?

W. Of Mr. Bowtell.

Dr. K. About

Dr. K. About what time?

W. On Friday the 19th of April last.

Question from Mr. Friend. Did you buy this second Copy by direction of Dr. Kipling?

W. I bought both Books by the direction of Dr. Kipling.

**JOHN BOWTELL SEN. called and Sworn.**

Dr. K. Do you recollect selling a Copy of a Pamphlet, intituled "Peace and Union," by Mr. Friend, to my servant?

W. I do.

Dr. K. From whom had you that Pamphlet?

W. From Mr. Friend.

Dr. K. Did you go to Mr. Friend's Chambers for it?

W. No.

Dr. K. Where then did Mr. Friend deliver it to you?

W. I received it from Mr. Friend, in my own house.

Dr. K. Did Mr. Friend bring it himself to your house?

W. No.

Dr. K. Who then brought it to your house?

W. It came to my house in a parcel directed to Mr. Friend.

Dr. K. Do you know from whence that parcel came?

W. I do not.

Dr. K. What did that parcel contain, besides that one Copy sold to my servant?

W. It contained that Pamphlet, and several other Duplicates.

Dr. K. How do you know that it contained several other Duplicates of that Pamphlet?

W. I saw them when the parcel was opened.

Dr. K. Who opened that parcel?

W. Mr. Friend himself.

Dr. K. How long had the Parcel been in your house, before Mr. Friend came to open it?

W. I do not now recollect, whether Mr. Friend came the same day on which it arrived or not, but it was on the same, or the following day.

Dr. K. Did Mr. Friend deliver that said Copy, and several others, to be sold for him?

W. He did.

Dr. K. Did he give you any Commission about the remaining Copies?

W. I do not recollect that he did.



Dr. K. Did he give no directions to send any Copies to Mr. Merrill or Mr. Lunn?

W. I do not recollect that he did.

Dr. K. Did you hear Mr. Frend give any such directions to your servant?

W. He did.

Dr. K. Inform the Court, what those directions were.

W. Mr. Frend directed my Servant to take one of the inclosed Parcels to Mr. Merrill, another inclosed Parcel was directed to be taken to Mr. Lunn.

Q. (from the Court) Were any of the Parcels under Cover?

W. They were tied up with the Titles; so that no Print was seen. The Ends of the Pamphlet were blank.

Q. How did you know that these Pamphlets were copies of "Peace and Union"?

W. I do not know that they were copies of "Peace and Union".

Q. Do you know that the Pamphlet now produced by Dr. Kipling's servant, was the Pamphlet sold by you?

W. I do not know that it was.

Mr. FREND cross-examined the Witness.

Mr. F. Have you not sold for me, a Variety of Books of different Authors, addressed both to yourself and Mr. Frend, in Parcels from London?

W. I have.

CHARLES DICKENS, L. L. D. called by the Promoter, and Sworn.

Dr. Kipling. Have you in your Possession at present, that Pamphlet, entitled, "Peace and Union, &c." by William Frend, that was shewn to me by a friend of yours and mine, about a week ago; containing an Appendix in two Parts?

Witness. I have.

Dr. K. Produce it to the Court. (produced)

Of whom had you that Pamphlet?

W. Of my Friend, Mr. Frend. I went to the printing office at St. Ives, where Mr. Frend was packing up many others. I took up one of the Pamphlets, and asked him whether I might take one. Mr. Frend consented to my taking one, (which I have now in my hand) but said, that he designed to have sent me one.

Dr. K. How do you know, that it is the same Pamphlet you took up at that time?

W. "Hicce Oculis video," I know it by my own handwriting on it.

Being

Being asked what he had written, he read,  
 "Sunt bona, sunt quædam mediocria, sunt mala plura."

Dr. Dickens was desired by Mr. Friend to read what he had wrote at the end of the book.

He read,

Siste per Fidem, at the bottom of the stairs

Nolo per Jovem, saith good Mr. Eyres

Nil dictum quod non dictum sit prius.

The Court was then adjourned to the next day at twelve o'clock.

### THIRD COURT DAY.

At a Court holden before the Right Worshipful Isaac Milner, D. D. Vice-Chancellor of the University of Cambridge, and John Smith, Richard Farmer, William Colman, Lowther Yates, John Barker, Joseph Turner, Francis Barnes, and William Craven, Doctors in Divinity, and John Fisher, L.L. D. his Assessors, between the hours of twelve and six, on Saturday the eleventh of May, 1793, in the Senate-house of the said University.

Me present.

GEO. BORLASE,

Not. Publ. and Registr.

The Office of the Judge promoted by Thos. Kipling, D. D. against William Friend, M. A. and Fellow of Jesus College.	}	Certain Resolutions respecting this Cause, (Pag. 4 & 5.) by which Dr. Kipling, Dr. Jowett, Mr. Mansel, Mr. Mainwaring and Mr. Belward, were appointed Managers to carry on this Prosecution, were read.
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Dr. Kipling desired that the two Pamphlets produced yesterday in Court, the one by Harvey Alger, the other by Dr. Dickens, might be examined by the Court, that the Court might be satisfied that they were duplicates of the Pamphlet "Peace and Union" in all respects excepting an Appendix annexed to the latter.

JOHN BOWTELL Jun. called and sworn.

Dr. Kipling. Do you recollect seeing Mr. Friend a few weeks ago open a Parcel in Mr. Bowtell's house containing some Pamphlets?

Witness. I do.

Dr. K. Did Mr. Friend deliver any of those Pamphlets to you?

W. He left some there for me to take out.

Dr. K. Did

Dr. K. Did he himself give you directions about them?

W. Yes.

Dr. K. What were those directions?

W. To take one Parcel to Mr. Merrill's and one to Mr. Lunn's.

Dr. K. Did you see the Title Page of any one of those Pamphlets?

W. Of some that laid loose.

Dr. K. What was the Title Page as nearly as you can recollect?

W. Peace and Union.

Dr. K. Do you recollect any Person's Name on the Title-Page?

W. Mr. Friend's.

Dr. K. Were you directed to carry out any of those Pamphlets that laid loose?

W. Yes.

Dr. K. Who gave you those directions?

W. Mr. Friend.

Dr. K. To what Gentlemen did he direct you to carry them?

W. To Dr. Edwards.

Dr. K. To any other Persons?

W. To Mr. Lambert, and to Mr. Marsh.

Dr. K. Were you to deliver any Message with the Pamphlets?

W. I do not remember that I was.

Dr. K. To whom did you deliver that Parcel which Mr. Friend ordered you to carry to Mr. Lunn's?

W. To Mr. Life.

Dr. K. Who is Mr. Life?

W. Mr. Lunn's Journeyman.

Dr. K. Can you say how many Pamphlets were in that Parcel?

W. They were tied up in fifties, and I took one Parcel.

Dr. K. To whom did you deliver that Parcel which Mr. Friend directed you to carry to Mr. Merrill?

W. To Mr. Merrill's Maid Servant.

Dr. K. Do you know her name?

W. No.

Dr. K. Can you recollect her Person, when you see her again?

Q. (from the Court) Do you know what those Pamphlets were, which you delivered to Mr. Merrill's Maid Servant?

W. No.



PHILIP LIFE, again called and examined by  
Dr. Kipling.

Dr. K. Do you recollect ever receiving from John Bowtell jun. a Parcel, containing 50 Pamphlets or thereabouts?

W. I do.

Dr. K. Did you open that Parcel yourself?

W. I cannot charge my memory, whether Mr. Lunn or I opened it.

Dr. K. Did you see the Parcel opened?

W. I saw it when it was open.

Dr. K. What were the Contents of it?

W. It contained 50 Copies of a Pamphlet, intitled, "Peace and Union recommended to the Associated Bodies of Republicans and Anti-Republicans."

Dr. K. Was there any Person's Name upon the Title Page?

W. Yes. Mr. Frend's.

Dr. K. What might be the Interval of Time, or nearly so, between your receiving the Parcel, and seeing it open?

W. I saw it open the same Evening it was brought.

Dr. K. Are you sure that the Parcel of Pamphlets that you saw open, was the very parcel that you received from John Bowtell Jun?

W. I am sure.

Dr. K. Did John Bowtell Jun. deliver any message to you, with that Parcel?

W. He said, it came from Mr. Frend.

Dr. K. Did he say for what purpose?

W. I do not recollect that he did.

Dr. K. Have any of those Pamphlets been sold in Mr. Lunn's shop?

W. Yes.

Dr. K. How many?

W. The whole fifty.

Dr. K. On what authority did you undertake to sell them?

W. I cannot say.—It was Mr. Lunn's order they should be put in the shop for sale.

Dr. K. Have any more Copies of the same Pamphlet, been sold in Mr. Lunn's shop?

W. Yes.

Dr. K. How many more?

W. About seventy.

Dr. K. Do you know where those seventy Copies came from?

W. I

W. I went for Fifty of them to Mr. Bowtell's house, and for the other twenty, to Mr. Frend's rooms.

Dr. K. Did you receive the fifty copies yourself from Mr. Bowtell?

W. I did.

Dr. K. What did you do with them?

W. I brought them home to Mr. Lunn's shop.

Dr. K. Are all those 50 Copies sold?

W. They are.

Dr. K. Were they all sold, before you went to Mr. Frend's chambers for more copies of the same Pamphlet?

W. I believe they were, but cannot speak with any certainty.

Dr. K. Do you know, whether any more Copies of the same Pamphlet, were brought into Mr. Lunn's shop for sale?

W. I never saw any, after the twenty Copies I received from Mr. Frend.

Dr. K. Do you believe, that no more than those 120 Copies, which have been just now mentioned, were exposed to sale in Mr. Lunn's shop?

W. I do.

Question from Mr. Frend. At what time did the sale of these Pamphlets begin at Mr. Lunn's?

W. Sometime about February the 13th last.

JOHN BOWTELL SEN. called and examined again by the Promoter.

Dr. Kipling. Did you ever deliver 50 Copies of the Pamphlet, entitled "Peace and Union, &c." to Philip Life, Mr. Lunn's Journeyman?

Witness. I do not recollect that I did.

Dr. K. Do you recollect whether Philip Life ever came and asked you for some copies of that work?

W. No; I do not remember that.

Dr. K. Do you recollect ever giving any parcel of books to Philip Life?

W. I have no recollection of it.

Dr. K. Did not Mr. Frend leave several Copies of the Pamphlet, entitled "Peace and Union," in your house to be distributed to others, who might ask for the work?

W. He did.

Dr. K. Did you make an entry in your account Books, of the number of Copies which he left you, for that purpose?

W. I believe I did.

Dr. K. Have

Dr. K. Have you kept an account in the same Books of the persons names to whom you have delivered copies of that work, and of the number of copies you have delivered to each person?

W. I have no account of any person to whom I have fold them.

Dr. K. You told the Court, yesterday, that you saw Mr. Frend open a parcel, which contained many Pamphlets; you have also told the Court, that several of those Pamphlets were left in your own possession—Have you kept any account of those Pamphlets?

W. No; I have not.

Dr. K. Are they all still in your own possession?

W. None of them.

Dr. K. Tell the Court to what persons you recollect having delivered some of them.

W. I think I recollect sending 50 copies to Mr. Frend unfold.

Dr. K. Tell the Court the names of all the persons to whom you have sent parcels of those Pamphlets.

W. I sent none; I saw them go; Mr. Frend sent them.

Dr. K. How many copies did you send to Mr. Lunn?

W. I sent none.

Dr. K. Do you mean to deny that Philip Life ever had 50 Copies from you, of the Pamphlet, intituled "Peace and Union, &c." by Mr. Frend?

W. No.

Dr. K. Do you think that he never had that number of Copies so intituled, from your house?

W. I might deliver them, but I do not recollect it.

Dr. K. You have said that you never sent any of those Pamphlets yourself to Mr. Lunn's, but that you saw 50 of them go.—By whom were they carried to Mr. Lunn's?

W. By my servant, John Bowtell Jun.

Dr. K. Who directed him to carry them thither?

W. Mr. Frend.

Dr. K. What message did Mr. Frend send with them?

W. I do not recollect any particular message.

Dr. K. Did he send no message?

W. He said, take them to Mr. Merrill and Mr. Lunn; this is all I recollect.

WILLIAM HENRY LUNN Sworn.

Dr. Kipling. Your Foreman has told the Court, that he received a parcel containing 50 Pamphlets from John

E

Bowtell



Bowtell Jun. that he does not recollect, whether he or yourself opened that parcel; do you recollect by whom it was opened?

W. I have no recollection of that circumstance at all.

Dr. K. Do you recollect that a parcel containing 50 Pamphlets, intituled "Peace and Union, &c." by William Frend, was left in the month of February, at your house?

W. I have a perfect recollection of their being left, but cannot speak to the time; but my Ledger will prove it.

Dr. K. Did you deliver them to your Foreman for sale in the shop, or give him any directions for that purpose?

W. I do not recollect.

Dr. K. By what authority then do you suppose, they were sold in your shop?

W. As coming from Mr. Bowtell, by Mr. Frend's order.

Dr. K. Had you any more Copies of the same Pamphlet, from Mr. Bowtell?

W. I sent for more, when the first were sold.

Dr. K. How many were brought?

W. Fifty.

Dr. K. Had you sold the whole 100 Copies, which you say you received from Mr. Bowtell, before the third of April?

W. I cannot say.

Dr. K. Had you sold all of them, when you sent for some more Copies from Mr. Frend?

W. I think they were all sold, I will not say positively.

Dr. K. What other Copies of the same work, have you ever received for sale?

W. Twenty Copies.

Dr. K. From whom did you receive those Twenty Copies?

W. I received them by my Agent, in consequence of a message I sent to Mr. Frend.

Dr. K. Had you ever any Copies of the same Pamphlet, for sale in your shop, beside the 100 Copies you had from Mr. Bowtell, and the 20 Copies you had by your Journeyman?

W. No.

Dr. K. Do you believe that those 120 Copies are the only ones ever brought into your shop for sale, and that you have sold no others?

W. I do.

Being

ELIZABETH EVERSDEN Called and Sworn.

Dr. Kipling. Do you remember ever seeing John Bowtell Jun.?

Witness. I do not.

Dr. K. Do you recollect receiving a parcel of Pamphlets from a person of about that size?

W. Yes.

Dr. K. To whom did you deliver that parcel?

W. To my master, Mr. Merrill.

Dr. K. Did you see that parcel opened?

W. No.

Dr. K. Did the person, of whom you received that parcel, deliver any message with it?

W. He told me they were Pamphlets, to be sold for Mr. Friend.

Dr. K. Did he tell you from whence they came?

W. No.

Dr. K. Do you recollect about what time you received that Parcel?

W. No.

Dr. K. Can you tell how long ago?

W. I cannot say.

JOHN BOWTELL JUN. called again.

Dr. Kipling. Do you recollect delivering a parcel of Pamphlets, which you received from Mr. Friend, to Eliz. Eversden, Mr. Merrill's servant?

Witness. I recollect delivering a parcel to Mr. Merrill's maid.

Dr. K. Do you recollect her person?

W. I cannot tell.

JOHN MERRILL Sworn.

Dr. Kipling. Do you remember, receiving from your maid servant, a parcel containing 50 Pamphlets, intitled "Peace and Union, &c. by William Friend," with a message, purporting that they were to be sold for Mr. Friend?

Witness. Yes.

Dr. K. How were those Pamphlets put up?

W. I cannot recollect, that they were put up in any particular order.

Dr. K. Were the Title Pages visible?

W. I do not remember they were visible; they had Titles.

Dr. K. Did you open the parcel yourself?

W. I did.

Dr. K. What were the Titles of those Pamphlets?

W. "Peace and Union, &c." by William Frend.

Dr. K. Have you sold any of those Pamphlets?

W. I have.

Dr. K. Do you recollect, whether at the time you received them, each Pamphlet had an Appendix to it?

W. They had.

Dr. K. Have you since that, sold any without the Appendix?

W. I have.

Dr. K. By whose authority was the Appendix cancelled?

W. By Mr. Frend's.

Dr. K. Did Mr. Frend in person, authorize you to cancel the Appendix?

W. Yes.

Dr. K. Did he in person, direct you to sell the Pamphlet, without the Appendix?

W. I do not recollect that he did.

Dr. K. Did he give you no directions whatever in person, about the sale of those Pamphlets?

W. I do not remember that he did.

Dr. K. To whom have you given credit, in your books, for the money you have received, for the Copies of the Pamphlets, that are sold?

W. To Mr. Frend.

Dr. K. Did you send a Copy of the said Pamphlet, to the Master of Arts Coffee House?

W. I did.

Dr. K. Do you recollect by whom you sent it?

W. I do not.

Question from the Court. At what time did you receive the parcel from your servant?

W. On February the 13th last, as appears by entry in my book.

Q. Do you remember numbering that Book? [Shewing him a Copy of "Peace and Union," from the Master of Arts Coffee-House.]

W. No; But I believe it to be numbered by my young man.

THOMAS WAGSTAFF Called and Sworn.

(A Book was given him by Dr. Kipling.)

Dr. Kipling. What is the Title of that Book?

Witness. "Peace and Union, &c."

Dr. K. Did



Dr. K. Did you ever see that book before ?

W. Yes.

Dr. K. Where did you see it ?

W. In the Master of Arts Coffee-Room.

Dr. K. Who keeps that Coffee-Room ?

W. I do.

Dr. K. From whence did that Book come ?

W. From Mr. Merrill's.

Dr. K. Look at the second leaf—Whose hand writing is that ?

W. It is mine.

Dr. K. What is written on the leaf ?

W. Master of Arts Coffee-Room.

Question from Mr. Friend. Who has a right to take books out of the Master of Arts Coffee-Room ?

W. Any Member belonging to the society ?

Q. Is Dr. Kipling a Member of that society.

W. No.

Q. Do you know then how that Book came into Dr. Kipling's possession ?

W. No.

Q. Do you know who took it out of the Coffee-Room ?

W. Mr. Frampton of St. John's.

Q. How long has it been out of the Coffee-Room ?

W. On the 6th of May.

Q. Are there any limitations respecting the time of taking Books out of the Coffee-Room ?

W. Seven Days.

Q. How long is a Book to be in the Coffee-Room, before it may be taken out ?

W. Two Months.

Q. When did you receive this Book ?

W. On the 15th of February.

(FROM THE COURT.)

Q. How do you know that the Book came from Mr. Merrill ?

W. Because it was numbered when it came in, which is the common case with Books that come from Mr. Merrill.

(Question from the Court to Mr. Merrill.)

Q. Do you remember how that number came on the Pamphlet ?

W. I believe it is my Young Man's writing.

REV.

REV. JOSH. WATSON, M. A. called and Sworn.

Dr. Kipling. Were you not Curate of Fenstanton in February or March last?

Witness. I was.

Dr. K. Did you not in that interval make some inquiries respecting the Price of Spinning Wool?

W. I did.

Dr. K. What led you to that inquiry?

W. The perusal of Part of a Book which I had read at the Master of Arts Coffee-House.

Dr. K. What was the Title of that Book?

W. I do not recollect the precise Title, but I have reason to believe, that the beginning of the title was "Peace and Union."

Dr. K. Is any Person's Name mentioned in the Title Page?

W. I believe, William Frend, M. A. Fellow of Jesus College.

Dr. K. Did you find what is stated in that Book, respecting the Price of Spinning, to be agreeable to the information you received from the Inhabitants of Fenstanton?

W. I had reason to believe that the information I received at Fenstanton, on that subject, was different from the information, I received from that Book, on that subject.

Dr. K. Did you mention that seeming misrepresentation to any one of your acquaintances at that time?

W. I did, whenever enquiry was made of me, on the subject.

Dr. K. Have you reason to think that Mr. Frend ever heard, that you thought, what is said in the before-mentioned Pamphlet, about Spinning, is not true?

W. I have reason to conceive so.

Dr. K. Mention that reason to the Court?

W. I did receive Notes or Letters, as I presumed coming from Mr. Frend; in one of which I was desired, not to assert in future, that the subject on which I had been questioned in various companies, was a misrepresentation.

Dr. K. Is that Note in your possession?

W. It is.

Dr. K. Have you it in Court?

W. I have.

Dr. K. Please to produce it.

Mr. Watson produced the Note.

REV. EDW. KILVINGTON, M. A.

Called by the Promoter, who shewed him the Note,  
and asked him;

Dr. Kipling. Whose hand writing is that?

Witness. Mr. Friend's

Dr. K. Have you frequently seen him write?

W. Yes, frequently.

Mr. FRIEND cross-examined the Witness.

Mr. Friend. Do you know it to be Mr. Friend's hand writing?

Witness. I do.

Mr. F. How came you to know it to be Mr. Friend's hand writing?

W. By having very frequently seen him write, and from having letters of his now in my own possession.

Mr. F. Did you ever write letters to Mr. Friend?

W. I believe I have.

Mr. F. Where did you see Mr. Friend write?

W. In his room when giving Lectures, for three years, or thereabouts.

Mr. F. How long is it since you saw Mr. Friend write?

W. About six or seven years since I saw him write, certainly not more.

Mr. F. How then can you say, that this is Mr. Friend's hand writing, that bears so late a date?

W. I have reasons, but on Mr. Friend's account, I am unwilling to give them.

Mr. F. I beg the Witness may be desired to give them.

(Here the Court consulted, and ordered Mr. Kilvington to give his Reasons:)

W. Mr. Friend's studied attentions shewn to me, as I believe they were shewn to all those whom he was desirous of proselyting to his own opinions, were such, as to have impressed very deeply on my mind, the recollection, not only of his hand-writing, but a thousand other circumstances, much more minute—Added to this, I have occasionally seen his hand-writing since the time I formerly alluded to.

Mr. F. How long since?

W. Very lately.

Mr. F. How far back?

W. Within a month.

Mr. F. On what occasion?

W. In



W. In the Order Book at the Master of Arts Coffee-House, and I further believe that I have seen Mr. Frend write within these two or three years.

Mr. F. Did you read the writing which you saw Mr. Frend write within these two or three years?

W. I have read the Directions of Letters which I have seen Mr. Frend write.

Mr. F. I desire to know the precise time.

W. I cannot say, but I believe, within three years.

Mr. F. Is it within two years?

W. I believe not.

REV. JOHN PLAMPIN, M.A. called and Sworn.

(A Note was given to him by Dr. Kipling.)

Dr. Kipling. Whose hand-writing do you believe that to be?

Witness. I believe it to be Mr. Frend's.

(FROM THE COURT.)

Q. Have you seen Mr. Frend write frequently and lately?

W. I have, within six weeks.

The Witness cross-examined by Mr. Frend.

Mr. Frend. Have any of your Pupils an opportunity of knowing your hand-writing at Lectures?

Witness. Certainly not, because it is not my duty to write in their presence.

REV. THOS. NEWTON, M. A. called and sworn.

(A Note was given to him by Dr. Kipling.)

Dr. Kipling. Whose hand-writing do you think that to be?

Witness. I believe it is Mr. Frend's, but I cannot say positively.

FROM THE COURT.

Q. Have you seen Mr. Frend write frequently, and how lately?

W. I have seen him write within a year or two, but not frequently.

(A)

The Note was read:

Mr. Frend having been informed, that Mr. Watson has studiously endeavoured, in various Companies, to make it appear that his account of the Fall in Spinning is a misrepresentation; takes this opportunity of acquainting him, that

that Mr. Frend gained his knowledge of this circumstance, from these sources; from the Poor employed in spinning, from the persons employed by the Wool-Dealers to deliver out Wool to the Poor, and from the printed Paper sent round by the Wool-Dealers. He asserts it as a Fact, from these informations, that the poor Person, who earned a shilling the week before the printed Paper Mr. Frend alludes to, was sent round, did the week after gain for the same quantity of work, only nine-pence. Mr. Andley, a Wool-Dealer in this town, is willing to corroborate this account, and will, Mr. Frend doubts not, give Mr. Watson any further information on this subject, which may not only tend to make Mr. Watson's ideas clearer, but prevent him from misstating in future, a matter of fact.

*Jesus College, March 13, 1793.*

[To the Rev. Mr. Watson, Fellow of Sydney College.]

Dr. K. Has that note ever been out of your possession?

W. It has.

Dr. K. How do you know that the very same note you lent, was returned to you?

W. By my own hand-writing, which is on one side of it.

Dr. K. When was that written?

W. Before it went out of my possession.

Dr. K. Did you return any Answer to that Note?

W. I did.

Dr. K. Be pleased to produce that answer, to the Court.

The Witness delivered in the answer, which he could not swear was a literal, or a verbatim Copy, of the answer he sent to Mr. Frend, but that it contained the meaning and substance; and was written on the same day he received the Note.

This answer was then read, and delivered to the Registrar.

Mr. Watson has received a Note from Mr. Frend, in answer to which he declares, that whenever the subject of conversation in his presence was the oppression of the Poor of Fenstanton, as represented in Mr. Frend's Appendix, he has asserted that he wished to believe that Mr. Frend, through ignorance, had misrepresented the fact; the foundation of this assertion, was information which Mr. Watson received at Fenstanton; Mr. Watson is still of the same opinion; as to his being studiously earnest either in approv-

ing or contradicting Mr. Frend's publication, he denies the fact.

*Drum, March 14.*

Dr. K. Did you ever receive any Answer to that Note you have now read?

Wit. I did.

Dr. K. Produce that Answer.

(Produced and Read)

(B.) *Rev. Mr. Watson, Fellow of Sydney College.*

Mr. Frend requests the favor of Mr. Watson to omit, in future, his remark on Mr. Frend's Account of the Fall in Spinning, namely, that he wished to believe that Mr. Frend, through ignorance, "had misrepresented the fact," as Mr. Frend takes upon himself to assure Mr. Watson, that the fact is not at all misrepresented. Mr. Frend has informed Mr. Watson from what sources he derived his information, and takes the liberty of observing, that Mr. Watson is not probably aware that the printed bills alluded to are formed at meetings for a large district, and that those which Mr. Frend saw, did not relate only to the Spinners of Stanton, but extended over Huntingdonshire, and parts of Northamptonshire and Bedfordshire.

In consequence of Mr. Watson's Note, Mr. Frend called this evening on Mr. Audley, who has given him a printed paper just made for Cambridgeshire, and Parts of Hertfordshire, Bedfordshire, and Huntingdonshire, and shewn him Letters from Yorkshire and other Parts, informing him of the Progress in the lowering of the Value of Spinning. At a Meeting, this week, in Suffolk, Spinning was lowered again 2d. per pound, from 9d. to 7d.

Now if in contradiction to Mr. Audley, and a variety of dealers whom Mr. Audley is willing to name to Mr. Watson, besides giving him every other information on this subject; Mr. Watson still persists in declaring that the Price of Spinning, which was one week at a shilling, and reduced, according to Mr. Frend's account, over a large district, to 9d. the week after, was not in this manner reduced; Mr. Frend can only request that he would point out to him, from what source he has derived an information which the principal dealer in wool of this place declares not to be true, which Mr. Frend knows also not to be true from the actual inspection of the printed papers which regulate these proceedings.

Mr. Frend did not in his former Note refer to his publication



lication at large, but simply to the Fact of the Fall of the Value of Spinning; he did not say that Mr. Watson was studiously earnest in contradicting or supporting Mr. F's publication, but solely that he has studiously endeavoured in various Companies, to make the account of the fall in spinning, a misrepresentation.

*Jesus Coll. Thursday Evening, March 14.*

Mr. Kilvington, Mr. Plampin and Mr. Newton, were then asked by Dr. Kipling whether they believed this Note to be the Hand-writing of Mr. Friend; to which they respectively answered, that they believed it to be his hand-writing.

Dr. K. to Mr. Watson. Did you answer this Note?

W. I did.

The Answer produced and read.

SIR,

I will briefly state to you the subject matter of the information which I received at my Parish—A Shilling may be termed the maximum of Price for Spinning a certain Quantity of that kind of Wool, which the generality of the Poor are found capable of spinning to the best advantage of the Wool-Dealer. But the Receipt of a Shilling for this quantity, from my information, depended upon the Price of Wool, upon the Dexterity and the Honesty of the Spinner, and upon the Conscience of the Dealer in Wool, to give what ought to be the due reward of labour—I understood, that of this certain species of Wool, and for a certain quantity, the Value of Spinning fluctuated from 1s. as the highest mark, downwards to 11 $\frac{1}{2}$ d. 11d. &c. according to the fluctuating Value of the manufactured Commodity when brought to Market. I pretend not to comprehend the Mystery of Woollen Manufactories so far as to explain why a shilling's worth of labour should only be paid by 11 $\frac{1}{2}$ d. 11d. &c. I concluded that at the time mentioned in your Publication, the Price of spinning a certain Quantity of this Wool was 9d. but I had reason to think that it did not, in one week, descend from 1s. to 9d. because the Majority of the Poor had not received the maximum of Price for some time. This is the substance of what I have said, when interrogated, as Curate of the Parish of Fenstanton, upon the Fall of Spinning. My Information was derived from some of the most respectable Inhabitants of my Parish. I have ever professed to suppose

that you had not wilfully misrepresented the matter of fact.

I am, Sir,

Your humble Servant,

J. WATSON.

Dr. K. Did you receive an Answer to this Note?

W. I did.

(Read)

(C) *Mr. Watson, Fellow of Sydney College.*

Mr. Frend did not write to Mr. Watson to enter into any Controversy on the Mysteries of Woollen Manufactories, which, like the pretended Mysteries of Religion, are only such to those, who do not give themselves the trouble of gaining knowledge from the proper sources. It is the misrepresentation of a matter of Fact, to the Injury of Mr. Frend's Character, that he complains of; and however light the subject may appear in Mr. Watson's eyes, as long as Truth is violated, it becomes Mr. Watson to acquire just Information, and having done that, to convict Mr. Frend of a falsehood, or to retract his former Assertion. Mr. Frend declares, that at the time mentioned in the Appendix to his Pamphlet, spinning was at nine pence, the week before it was at par or a shilling. Mr. Watson denies this, and is referred by Mr. Frend to Mr. Audley, the principal Wool-Dealer in this place, or to any Wool-Dealer in Huntingdonshire. It appears strange, that Mr. Watson should delay to call on Mr. Audley, from whom he will gain more information on this subject, than from the most respectable Inhabitants of his Parish, not immediately concerned in letting out spinning to the Poor.

*Jesús College, March 15, 1793.*

Mr. Plampin, Mr. Kilvington, and Mr. Newton, were called by the Promoter to prove the Hand-writing of the above Note, and deposed as before.

(Dr. Kipling to Mr. Watson)

Were the two last Notes you produced marked with the marks B. and C. by you, before you parted with them?

W. They were.

Dr. K. Did you answer the third Note marked C?

W. I did.

(Mr. Watson's Answer read.)

SIR,

You assert that I deny what you positively affirm—I do not—The information which I received from my Parishioners, about the fall of the Price of Spinning, seemed inconsistent

inconsistent with the Contents of your Publication. I repeat to you that I am not skilled in the knowledge of the practices observed in Woollen Manufactories—I cannot from my own knowledge, presume to contradict what you, from your professed extensive investigation of the subject, positively assert to be matter of Fact—I will endeavour to recollect, if it can be deemed worthy of recollection, that you have unequivocally contradicted the idea which I had conceived, from the information of my Parishioners.

I have before said, that I wished to believe, that thro' ignorance you had misrepresented a matter of Fact—You cannot think that I have injured your character, by supposing you liable to error.

But I affirm, that it will be a violation of Truth, if you maintain that I have, in various companies, studiously endeavoured to accuse you of wilful misrepresentation—I beg leave to decline any future correspondence with you upon the subject of the “fall in spinning” at Fenstanton—I would wish to profess the apparent sentiments, of that person, or those persons, who humanely and studiously endeavoured to deliver your Pamphlet from the incumbrance of its Appendices, by tearing them from the Copies that were sent to the different Booksellers. I would be far from desiring, that by any exertion of mine, the remembrance even of these lucubrations, should be attached to the main body of your Publication. The intention of their separation from it, doubtless was, that they might be consigned to Oblivion—that peaceful Asylum where enthusiastic Rhapsodies and chimerical Theories, having lost their novel excentricity, repose undisturbed from persecution, being secured by their own intrinsic insignificancy.

I am, Sir, Your Humble Servant,

J. WATSON.

*Sydney Coll. March 17.*

Dr. K. By whom did you send that answer to Mr. Friend?

W. By my bed-maker, John Smith.

Dr. K. Did your bed-maker bring you any answer?

W. He did.

(The Court ordered that John Smith be cited to appear on the next Court Day.)

Dr. K. Have you any particular Reason to think that the Notes marked A. B. C. came from Mr. Friend of Jesus College?

W. I have,

Dr. K. Please



Dr. K. Please to give that reason to the Court.

W. The first time I met Mr. Friend in public, after the receipt of the third note, he used to me the words, "*Our Correspondence has ceased.*"

Dr. K. Had you any other correspondence with Mr. Friend in writing, since Christmas?

W. Not to the best of my recollection.

Dr. K. Is there any other reason you would produce to the Court?

W. No.

The Witness cross-examined by Mr. Friend.

Mr. F. Have you not reason to believe, that the information you received from Fenstanton, was not true?

W. At the time I received the information, I thought it true; since that time I have not searched into it, being satisfied with what Mr. Friend had shewn me.

Mr. F. What did Mr. Friend shew you?

W. Several papers since our correspondence.

Mr. F. What did these papers relate to?

W. I do not exactly know.

Mr. F. Were they certificates?

W. I believe one might have the form of a Certificate.

Mr. F. Were they all written papers?

W. I believe not.

Mr. F. Have you any recollection of what the printed papers referred to?

W. I remember seeing one printed paper particularly.

Mr. F. I beg you to relate, what the printed paper contained.

W. I believe it contained a scale of the Prices of Wool-Spinning, but I cannot swear that it did.

The Court was then adjourned to Monday next, at ten o'clock in forenoon.

#### FOURTH COURT DAY.

At a Court holden before the Right Worshipful Isaac Milner, D. D. Vice-Chancellor of the University of Cambridge, and John Smith, Richard Farmer, William Colman, Lowther Yates, John Barker, Joseph Turner, Francis Barnes, and William Craven, Doctors in Divinity, and John Fisher, L.L. D. his Assessors, between the hours of ten and two on Monday the thirteenth of May, 1793, in the Senate-house of the said University.

Me present.

G E O. B O R L A S E,

Not. Publ. and Registr.

The

<p>The Office of the Judge promoted By Thos. Kipling, D. D. against William Frend, M. A. and Fellow of Jesus College.</p>	}	<p>Francis Hodson sworn and examined, also E. Kilvington, J. Plampin, T. Newton, J. Merrill, J. Bowtell Sen. J. Bowtell Jun. H. Alger, ex- amined, and J. Smith, and W. Mathew, L.L. B. sworn and examined.</p>
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FRANCIS HODSON called by Dr. Kipling and sworn.  
(The Cambridge Chronicle and Journal was given  
to him, dated February 9th, 1793.)

Dr. Kipling. Are you the Printer of that News-  
Paper?

Witness. Yes.

Dr. K. Read that Advertisement.

W. In the Press, and, &c.

Dr. K. By what authority did you insert that Adver-  
tisement?

W. A Gentleman of the University brought it to me  
on February the 6th, and desired me to insert it, and paid  
me for inserting it.

Dr. K. Was it Mr. Frend himself?

W. No.

Dr. K. Do you know who the Gentleman was?

W. It was the Rev. Herbert Marsh, Fellow of St.  
John's College.

Dr. K. Have you the writing which Mr. Marsh left  
with you?

W. I have.

Dr. K. Produce it to the Court.

(Produced and read.)

" In the Press, and in the course of next week will be  
published, PEACE AND UNION recommended to the  
" associated Bodies of Republicans and Anti-Republicans,  
" by William Frend, M. A. and Fellow of Jesus Col-  
" lege."

The REV. HERBERT MARSH, M. A. was called, but  
represented to the Court, that he was a near Relation  
and a private friend to the Defendant, and desired  
therefore that his evidence might be dispensed with,  
which was consented to by the Promoter.

The Cambridge Chronicle and Journal, dated 16th of  
February, was then given to Mr. Hodson.

Dr. K. Are

Dr. Kipling. Are you the Printer of that News-Paper?  
Witness. Yes.

Dr. K. Read that Advertisement.

W. This day is published, &c.

Dr. K. By whose order did you insert that Advertisement?

W. By Mr. Frend's own order personally.

Dr. K. Mention to the Court what passed between you and Mr. Frend, relative to that order.

W. I cannot recollect the exact words, but Mr. Frend desired me to repeat his advertisement in the next paper, and to say, "This day is published."

Dr. K. Did he make use of any other words?

W. Not to my recollection.

Dr. K. Did you receive a Note from Mr. Frend soon after that conversation?

W. I received a note in the name of Mr. Frend, saying that he had omitted to desire me to add "the Price of One Shilling."

Dr. K. Produce that note to the Court.

(Produced and read).

Dr. K. Have you ever seen Mr. Frend write?

W. Yes.

Dr. K. Do you think those Notes were written by Mr. Frend?

W. I am of opinion they were, but I would not be considered to speak positively.

The Court desired him to give his Reasons for thinking them the hand-writing of Mr. Frend.

W. The reasons are, that the respect I have for Mr. Frend, as a Gentleman of Literature and a Member of this University, would not have permitted me to insert an Advertisement, to which his name was annexed, unless I supposed, I had his own authority for doing it.

REV. E. KILVINGTON, M. A. called.

Dr. Kipling. Whose hand-writing do you believe that to be in both those notes?

Witness. Mr. Frend's.

Dr. K. Have you seen Mr. Frend write within these two years?

W. I am now, upon recollection, prepared to say, that I have.

Dr. K. Have you read any of Mr. Frend's hand-writing, which you have seen him write with in these two years?

W. I have.

REV.



REV. JOHN PLAMPIN, M. A. called.

Dr. Kipling. Look on these two notes—Whose handwriting do you believe it to be?

Witness. I believe it to be Mr. Friend's, but am not so certain of it as I was of the others.

REV. THOMAS NEWTON, M. A. called.

Dr. Kipling. Look at those two notes—Whose handwriting is it?

W. I cannot speak positively, but I believe it to be Mr. Friend's.

JOHN MERRILL called again.

Dr. Kipling. Have you ever received into your house any one Copy of "Peace and Union, &c." by William Friend, besides those 50 copies which you mentioned in your former evidence?

W. I never received any more than that parcel on the 13th of Feb. last.

JOHN BOWTELL SEN. called again.

Dr. Kipling. Have you ever had in your house, either as presents, or for sale, any Copies of the Pamphlet, intitled "Peace and Union," that were not contained in the parcel, which you have told the Court, was opened by Mr. Friend at your house, and in your presence?

Witness. None that I have seen.

Dr. K. Do you not think you would have seen them, had there been such?

W. Yes, I think I should, had I been in the way.

Dr. K. Did you ever hear of any such coming into your house, that were not contained in that parcel?

W. I have.

Dr. K. Do you know from whence they came?

W. No.

Dr. K. Do you know who brought them into your house?

W. No.

Dr. K. Who told you about them?

W. My Nephew, John Bowtell.

Dr. K. Have you sold any of those Copies?

W. No.

Dr. K. Are they still in your possession?

W. No.

Dr. K. To whom have you delivered them or caused them to be delivered?

W. I have neither delivered them to any body, nor caused them to be delivered.

JOHN BOWTELL JUN. called.

Dr. Kipling. Have any Copies of the Pamphlet, intitled "Peace and Union, &c." been brought into your Master's house, besides all those Copies of that Pamphlet, which were taken out of a parcel opened there by Mr. Friend?

Witness. I brought some in myself.

Dr. K. Do you recollect how many you brought in?

W. No.

Dr. K. From whom did you receive those copies?

W. I fetched them from the Inn where the Carrier sets up at?

Dr. K. What Carrier?

W. The St. Ives.

Dr. K. To whom were they directed?

W. They were directed to our house, I think for Mr. Friend.

Dr. K. Who ordered you to go to the Carrier's for them?

W. Mr. Friend.

Dr. K. What did you do with those Copies?

W. Mr. Friend desired me to unpack them.

Dr. K. Where was you when he desired you to unpack them?

W. In our own house.

Dr. K. Do you know what became of them afterwards?

W. They were sent to London.

Dr. K. Did you take them to the London Carrier yourself?

W. Yes.

Dr. K. How do you know they were Copies of the Pamphlet, "Peace and Union, &c."?

W. I saw some of them untied, and saw the Title-Pages.

Dr. K. When?

W. About the 16th or 17th of February, on Thursday night, and they were sent to London the same night.

Mr. FRIEND cross-examined the Witness.

Mr. Friend. Do you remember seeing Mr. Friend before at your house, packing up, or unpacking parcels?

Witness. I have seen Mr. Friend one or two days before in our house unpacking a parcel.

Mr. F. But

Mr. F. But within these three or four years last, have you seen him frequently unpacking parcels, or causing them to be packed?

W. I do not remember that I have.

JOHN BOWTELL SEN. called again.

Dr. Kipling. Have any Copies of the Pamphlet been sent from your house to Mr. Merrill or Mr. Lunn for sale, which were not taken out of the parcel you saw Mr. Frend open?

Witness. I cannot tell—I do not know of any.

Dr. K. Have you ever sold any copies with the Appendix annexed?

W. I do not recollect that I have sold one with the Appendix annexed.

Dr. K. Was the Appendix torn from any Copies of the Pamphlet at your house?

W. Yes, it was cancelled.

Dr. K. Who cancelled it?

W. I did.

Dr. K. By whose order?

W. By Mr. Frend's.

Dr. K. To whom have you given credit in your books, for the money you have received, for the pamphlets sold by you?

W. To Mr. Frend.

Question from Mr. Frend. Do you recollect several parcels of books of various authors, in the course of four or five years, packed or unpacked by me or my order, at your house?

W. I do.

HARVEY ALGER called again.

Dr. Kipling. Did you deliver both the Copies of the Pamphlet, which you purchased by my Order, at Mr. Lunn's or Mr. Bowtell's, into my hands, on the first Court Day, or one only?

Witness. Only one.

Dr. K. Which of them was it?

W. That which I purchased at Mr. Lunn's.

Dr. K. How do you know it was that Pamphlet in particular?

W. I marked it with an L.

Dr. K. Did you see me take the very same Pamphlet from the Table in the Court, on that Day?

W. I did.



Dr. K. How do you know it to be the same?

W. By the marks which were on it.

Dr. K. At what Time did I take it from the Table?

W. At the Time the Court broke up.

Dr. K. To whom did I deliver it?

W. To me.

Dr. K. When and where?

W. At the Table, at the Time the Court broke up.

JOHN SMITH called and sworn.

Dr. Kipling. Do you know Mr. Friend by Sight?

Witness. Yes.

Dr. K. Do you remember carrying a Note to him from Mr. Watson of Sydney, within these two or three months?

W. Yes.

Dr. K. Did you deliver it into Mr. Friend's own hands?

W. I did.

Dr. K. What did Mr. Friend say to you on that occasion?

W. It required no Answer.

Dr. K. Is this the only Note you ever took from Mr. Watson to Mr. Friend?

W. Yes.

Dr. Kipling then read the third Article (pag. 10) and also the twenty-ninth Page of the Pamphlet "Peace and Union," beginning from the Words "The Liturgy, &c." to the Words "such Compositions?" and referred the said Article to the Judgment of the Court.

After Dr. Kipling had read the fourth Article, (page 10) he begged leave to add a few words concerning it; as some persons, he found, doubted, whether these words "the great body of Christians," which occur in the 37th page, were intended to mean the Church of Rome only, or included the members of the Church of England. To find out their true meaning he desired the Court to observe, that in the exhortation, with which the paragraph concludes, are mentioned only those Churchmen and Dissenters, who "reject many points established in the Romish Church;" and that therefore the Charge "of worshipping created Beings," which is the subject matter of this paragraph, is laid by the Author of the Pamphlet, not against the Romish, but against the Reformed Church; in which latter is contained the Church of England.

Dr.

Dr. Kipling then read the 5th Article (page 10) and part of the 30th page of the Pamphlet, beginning at the words, "the Christian World," to the words, "Spirit of Christianity," and adduced the Case of Charke, Fellow of Peter-House, in 1572, who was expelled his college, and banished from the University, for having asserted, that among the Ministers of the Church of Christ, there ought to be no superiority or pre-eminence whatever.

Dr. Kipling then read the Sixth and seventh Articles, (Page 10.) and called

WM. MATHEW, Esq; L.L. B. who was sworn,  
and deposed as follows:

Dr. Kipling. Was Mr. Frend Fellow of Jesus College in the month of February last, and does he continue Fellow at this time?

Witness. He was Fellow in the month of February last, and is Fellow at this time.

Dr. K. On what ground do you affirm that?

W. On two Grounds—The first, because the admission to his Fellowship in Jesus College appears upon the Register of the College, and because I pay to him such money, as is due to him as Fellow.

REV. JOHN PLAMPIN, M. A. called.

Dr. Kipling. Do you know that Mr. Frend was Fellow of your College, in the month of February, and that he continues Fellow?

Witness. Yes.

The Vice-Chancellor directed the Registry to produce the Book of Degrees, and the Supplicat for the admission of Mr. Frend to the Degree of M. A. at the next Court.

Dr. Kipling then read the 8th Article (page 11) and part of statute "*De concionibus*," from the word "*Prohibemus*," to the end; and the Grace, passed in the year 1603.

The 9th Article (page 11) was then read by Dr. Kipling, and the Vice-Chancellor appointed the next Court-Day for Dr. Kipling to make his observations on the Evidence.

Adjourned to Friday the 17th inst. at ten o'clock in the forenoon.

## FIFTH COURT DAY.

At a Court holden before the Right Worshipful Isaac Milner, D. D. Vice-Chancellor of the University of Cambridge, and John Smith, Richard Farmer, William Colman, Lowther Yates, John Barker, Joseph Turner, Francis Barnes, and William Craven, Doctors in Divinity, and John Fisher, L.L. D. his Assessors, between the hours of ten and twelve of Friday the seventeenth of May, 1793, in the Senate-house of the said University.

Me present.

GEO. BORLASE,

Not. Publ. and Registr.

The Office of the Judge } The Book of Degrees, and  
promoted } the Supplicat for the admis-  
by Thos. Kipling, D. D. } sion of William Frend, to the  
against } Degree of Master of Arts,  
William Frend, M. A. and } was produced by the Regis-  
Fellow of Jesus College. } trary, and Dr. Kipling was  
heard upon the evidence here-  
tofore produced in this Cause to the Court.

He began with expressing his acknowledgements to the Court for their patient attention during the trial, and for their present indulgence. His aim now was to collect and combine the scattered parts of the evidence—Arrangement would communicate energy; a perspicuous connected detail would aid the decisions of justice, remove the hesitation, which might have arisen from suspense, and impress a deeper conviction, where its force had been weakened by the interruptions and tedium of the Trial. In my remarks however, he said, I shall be as concise as possible, and shall carefully avoid every thing impertinent and personal.—And, if any thing of this nature should fall from the Defendant, he left it to the Authority of the Court to repress it. Whilst at the same time it would be a consolation to him, that the Accuser had not, in that respect, been the Aggressor; that invective was deprived of the plea of retaliation.

After this introduction, Dr. Kipling repeated the charge which had been brought against Mr. Frend, and explained the principal step which he had taken, previous to the trial, in order to establish its truth. Not aware of any objection to the testimony of a domestic to a plain matter of fact, he had directed his servant, Harvey Alger, to purchase two  
copies



copies of the pamphlet, intituled "Peace and Union," at different booksellers. And the Court had now heard his deposition, that in compliance with his Master's orders, he did on the 19th of last April, buy two copies, one at Mr. Bowtell's, and the other at Mr. Lunn's; that, before he delivered them to his Master, or any other person, he put such marks upon them, as might enable him to swear to their identity, and in particular, upon the copy bought at Mr. Lunn's, the letter L.

Dr. Kipling then addressed the Vice-Chancellor, with observing, that the *First* result of his Examination of Witnesses was this, that the Pamphlet marked L. and now in the possession of the Court, was one of Twenty Copies, which Philip Life, Mr. Lunn's Foreman, brought from Mr. Frend, at his Chambers in Jesus College, on the 3d of April.

The testimony upon which he built this conclusion,  
was arranged, as follows :

Mr. Lunn had deposed, that he received by his Agent, in consequence of a message sent to Mr. Frend, 20 Copies of the Pamphlet, entitled "Peace and Union."

Philip Life, his foreman, had deposed, that he went to Mr. Frend on the 3d of April, with this message from his master, "Mr. Lunn's compliments, and having sold all the copies of his Pamphlet, which he had from Mr. Bowtell's, desires to have 50 more;" that Mr. Frend gave him 20, and that he brought these to his master's shop for sale.

Being asked, whether Mr. Lunn had any Copies of the Pamphlet unfold at the time of his going with the above message, he answered, "not that I know of;" and being again interrogated, whether Mr. Lunn had procured any other copies of the pamphlet for sale from any other quarter, between the 3d and 19th of April, he replied, "not to my knowledge."

Another deposition of his Master was, that the only Copies he ever had for sale, were 100, which he received from Bowtell's, and 20, which he afterwards received from Mr. Frend by his Journeyman; and that he thought he had not one copy remaining in his house, when he sent him to Mr. Frend on the 3d of April for some more.

From these premises then, Dr. Kipling remarked, the conclusion is clear and decisive.

Dr. Kipling here added, that what was true of the Copy marked L. was also true of that which another witness had

had delivered to the Court on the second Court-Day.—Mr. Lloyd had deposed, that he bought his copy at Mr. Lunn's shop on the 18th of April.

And, as if solicitous to engage the attention of the Court in a peculiar manner, to the point and the proof before them, he called their recollection to other parts of the evidence. According to the testimony of Bowtell Sen. Mr. Frend had come his to house on or about the 13th of last February, had opened a parcel which was directed for himself at Bowtell's, and which contained several pamphlets, and had ordered his Nephew (Bowtell Jun.) to take 50 of them to Mr. Lunn's. From Bowtell Jun. they had learned, that these 50 copies were delivered by him to Philip Life, and from the latter, that he had received them into his Master's shop, and that, when they were all sold, had fetched 50 more from Bowtell's house, who himself gave them into his hands.

After this proof, Dr. Kipling proceeded to shew, that even admitting it was not conclusive, there remained *another*, which could not be disputed.—Supposing Mr. Lloyd's copy, and that marked L. were not of the twenty which were brought from Mr. Frend's chambers, they still must have come from Bowtell's house, and consequently from the Defendant.

His argument was comprized in the following interrogatories and answers :

Philip Life was asked, "Do you believe, that no more than the 50 copies, delivered to you by Bowtell Jun. as coming from Mr. Frend; the 50 you yourself afterwards received from Bowtell the Elder, and the 20 you brought from Mr. Frend's Chambers, were ever exposed to sale in Mr. Lunn's shop?" And the witness replied in the affirmative.

To the question, "Had you ever for sale in your shop any copies of the pamphlet, intituled "Peace and Union," besides the 100 you received from Mr. Bowtell, and the 20 which your Foreman brought from Mr. Frend?" Mr. Lunn replied in the negative.

The Elder Bowtell was then asked, whether any copies of the pamphlet in question, had been sent to Mr. Lunn's for sale from his house, which had not been taken out of the parcel opened by Mr. Frend in his house, and in his presence—And his answer was, "I do not know of any."

Who then, observed the Promoter, as he recapitulated this united testimony, can controvert the plain inference, that if the copies before-mentioned, which were both purchased at Mr. Lunn's, did not come from Mr. Frend's chambers on the 3d of April, they were still a part of the  
parcel

parcel opened by Mr. Frend in Bowtell's house, and revert to him as their Publisher and Owner?

From this accurate representation, from this two-fold proof of the same point, Dr. Kipling passed to a *Third* particular of no less moment. He appeared to wish to spare no investigation, nor could he be conscious of having done so. He seemed not to expect conviction from declamation or artifice, but to address the Judge in his true capacity, as the severe and steady Patron of Truth in her plainest dress.

He now proposed to shew, that the Defendant had issued the copy, which his servant had bought at Bowtell's, and the copy, which belonged to the Masters of Arts Coffee-House, and was distinguished from the other only by an Appendix:

For the first, the single testimony of Bowtell was adverted to. He had said, that he never saw in his house, either as presents, or for sale, any copies of the Pamphlet, except such as had been taken out of the parcel opened by Mr. Frend in his house, and in his presence: and that he thought, he must certainly have seen them, if there had been any others.

With respect to the copy belonging to the Masters of Arts Coffee-House, Dr. Kipling appealed to the depositions of four witnesses:

Mr. Merrill had told the Court, that on the 13th of February, his Maid-servant delivered to him a bundle, containing 50 copies, which were all he had ever received into his house; and that he sent the copy before them to the Masters of Arts Coffee-House.

Elizabeth Eversden, the Maid-servant, had added to her Master's testimony, that she received from a young person, about the size of Bowtell Jun. a bundle of Pamphlets, and was told by him, that they were to be sold for Mr. Frend.

Of the two Bowtells, the younger says, that, in obedience to orders given by Mr. Frend in person, he took a bundle of 50 Pamphlets to Mr. Merrill's shop, and delivered it to his maid-servant; the Elder deposes, that Mr. Frend in his presence, ordered his Nephew (Bowtell Jun.) to carry a bundle of pamphlets, which came out of the parcel opened by Mr. Frend, to Mr. Merrill's house, and that he knows not of any one copy being sent from his house to Mr. Merrill's, excepting the contents of that bundle.

The Court then, remarked the Promoter, cannot but  
H anticipate



anticipate the observation, which closes this statement.—Mr. Merrill having no copy for sale, but what had come from Bowtell's house, out of the parcel opened by Mr. Frend, they will immediately decide the claim of the Defendant to that, which was sent to the Masters of Arts Coffee-House.

At this point of the summary, Dr. Kipling, anxious to carry along with his own convictions, those of his hearers, recalled to their memories the amount of the whole preceding proofs. Out of five copies in the possession of the Court, four have come from the Defendant, either when he was at Mr. Bowtell's, or at his own Chambers: viz. Mr. Lloyd's, the Masters of Arts, and the two purchased by his servant.

He intended hereafter to shew, that the fifth had the same source.—But he was now proceeding to the *Fourth* result of the evidence. And he had, he said, in his hand a string of depositions, whose proof could not be resisted, that the sale and dispersion of every copy within the precincts of this University, originated with the Defendant.—He was indeed aware of the objection, which might be here made, to the repetition of testimony, but requested, that the nature of his situation, as Promoter, and the solicitude he felt, to discharge his obligations, and to impress the minds of his honourable auditory, might be admitted as his excuse and apology.

Dr. Kipling then entered upon a narrative to this effect:—A parcel directed for Mr. Frend was brought to the house of Bowtell Sen. in the month of February. On the day it arrived, or certainly on the following day, Mr. Frend came and opened it in his presence.—It contained a number of pamphlets, some of which Mr. Frend put into his hands. Of these, and of others, which he saw scattered about, the Titles were "Peace and Union, &c." From this circumstance he concluded, that the Titles of the rest of the parcel were the same—No others, but what came out of this parcel, has he ever seen in his house; and when he sold any, he considered himself as accountable to Mr. Frend for the money.

Bowtell heard Mr. Frend order his nephew to carry two bundles of Pamphlets, which were a part of the parcel, one to Mr. Merrill's, and another to Mr. Lunn's.—And the nephew, in compliance with that order, took the two bundles, each containing 50 Pamphlets, and going to the booksellers, delivered one to Mr. Merrill's maid-servant, and the other to Mr. Lunn's foreman.

The

The maid-servant, according to her account, received a bundle for her master from a boy, about his size, and was told, "that it contained some pamphlets to be sold for Mr. Frend;" and she delivered the bundle to her master with the message.

Mr. Merrill, on opening it, found it to contain 50 pamphlets with the Title "Peace and Union, &c." sold several of them, though none but what were a part of that bundle, and gave Mr. Frend credit for the money in his account book.

Mr. Lunn's Foreman received the other bundle of pamphlets from Bowtell Jun. and when it was opened, either by himself, or Mr. Lunn, observed, that it also contained 50 of the aforesaid pamphlets.

Mr. Lunn took notice of the number of the pamphlets, and also of their Titles, as well as his foreman. Mr. Lunn indeed received from Bowtell's 100 copies in the whole, (which all came out of the parcel opened by Mr. Frend) and he had had 20 from Mr. Frend's chambers—But besides these, he never had for sale any others. The 100 have been sold by him, and though he had not Mr. Frend's express direction to sell them, yet he exposed them to sale, upon the presumption, that they could not be sent to a bookseller for any other purpose.

From this relation drawn from the evidence, Dr. Kipling concluded, that not one single copy of the pamphlet under consideration had been sold in this place, but what came from the Defendant: That he was the publisher of it, and had caused it to be dispersed within the precincts of this University.

He could, he said, insist upon other points, as that Mr. Lunn's foreman had received 20 pamphlets out of Mr. Frend's own hands, at his Chambers in Jesus College, to be sold at his Master's shop:—But he hastened from an uninteresting, though important detail, to prove, that Mr. Frend is the AUTHOR, as well as the PUBLISHER of the PAMPHLET.

Dr. Kipling requested, that the Court would connect the preceding testimony with the language, in which the Pamphlet is addressed to the public. An anonymous Author had not obtruded himself on their notice. The Title-Page greets them in the name of W. Frend, and informs them, that the book is published for him, the Author.

There is, he continued, in the minutes of the Court more than one confession on the part of Mr. Frend of the

Truth of what the title-page asserts. The Pamphlet had scarce appeared to the world for three days, when the Defendant called on Mr. Merrill, and ordered him to cancel the Appendix. Now, had Mr. Frend's name been put into the Title without his knowledge, and without his consent, would he have ordered the last leaf to be torn off? Would he not rather have directed the bookseller to cancel the first leaf? He certainly admitted in this act, that the remainder claimed, and was not unworthy of his signature.

What else is it, Dr. Kipling said, but a confession of Authorship, that upon being asked by a bookseller's servant for more copies of HIS Pamphlet, the Defendant should immediately, with his own hands, give him those, which were in his possession?

Dr. Kipling next produced and read the advertisement, which had been sent to Mr. Hodson, to be inserted in the Cambridge Chronicle of the 9th of February.—It told the same tale to the world with the Title-Page. And the note, in which it had been sent, had been proved by four Witnesses to be Mr. Frend's hand-writing. Nor was this all,—In the following week Mr. Frend had himself called on the Printer, and directed him to repeat HIS Advertisement.

Dr. Kipling after this, reminded the Court, that they were in possession of a fifth Copy of the Pamphlet, which he had not yet assigned to its owner. It was that which Dr. Dickens had produced. He repeated Dr. Dickens's testimony, and observed, that he had now fulfilled the promise he before made, of shewing that this, as well as the others, came from the Defendant; and he would now prove him to be its Author, and by consequence, the Author of the rest, which bore it company. They differed in nothing, which at all affected the merits of the cause—There were two with an Appendix, and three without.

Mr. Watson, he said, had been engaged with Mr. Frend in an epistolary controversy on an assertion contained in the Appendix—Three notes written by Mr. Frend had been produced by Mr. Watson. The hand-writing of each had been established; and in the third, Mr. Frend expressly acknowledges the pamphlet, to which this Appendix belongs to be HIS—a direct confession from Mr. Frend himself, that he is the author.

Here the Promoter, by a brief recapitulation of these last proofs, closed his review of the evidence, and expressed  
his



his firm conviction, that the most scrupulous must admit the truth of the Second Article of Accusation. Indeed, for his own part, he said, he had no doubt of the truth of every charge. They had all been read to the Court, and spake a plain intelligible language. He held it to be unnecessary for him to point out the pernicious tendency of the passages quoted. The ordinary feelings of men would be insulted by such an attempt—Neither could he be called on to unfold a criminal intent, where there was no hidden meaning.—He left to sophistry its own devices.

Neither did he consider it, he added, as necessary for him to touch on that part of his accusation, which had respect to the Laws and Statutes violated.—No objection had as yet been made to that charge—And he stood before a Court, which needed no counsel from him, before the Governors of the University, a Judge and his Assessors, who are the established lawful interpreters of all its ordinances.

Dr. Kipling then finished his accurate and able statement by saying, that, as he could not foresee what his adversary might alledge in his defence, he still reserved to himself the privilege of reply.

The Court was adjourned to Friday next, the 24th inst. at ten in the forenoon, when Mr. Friend was appointed to enter on his defence.

### SIXTH COURT DAY.

At a Court holden before the Right Worshipful Isaac Milner, D. D. Vice-Chancellor of the University of Cambridge, J. Smith, R. Farmer, W. Colman, L. Yates, J. Barker, Jos. Turner, Fr. Barnes, W. Craven, and J. Postlethwaite, Doctors in Divinity, and John Fisher, L. L. D. his Assessors, on Friday the 24th of May, 1793, between the hours of ten and three, in the Senate-house of the said University.

Me present.

GEO. BORLASE,

Not. Publ. and Registr.

The Office of the Judge }  
promoted }  
By Thos. Kipling, D. D. }  
against }  
William Friend, M. A. and }  
Fellow of Jesus College. }

Mr. Friend was heard on his defence, having first reserved to himself the Power of objecting hereafter to any Part of the Evidence or of the Proceedings heretofore produced, and had before the Court in this Cause.

Mr. Friend addressed the Vice-Chancellor—I hope the Court

Court will not take advantage, if I should in the course of my Defence, inadvertently call the Pamphlet mine, as I am obliged to defend it.

Vice-Chancellor. Certainly not.

## DEFENCE.

### I.

After the Promoter has been allowed four days in accusing me, I feel myself happy, in having at length an opportunity of refuting the Charges brought against me, and of proving, I trust, to the satisfaction of this Court, that they are false, wicked and malicious.

This is a Cause of a most extraordinary nature, such as has not been known since the foundation of the University. It is a persecution unheard of—It has been carried on in a manner that would disgrace the worst Inquisitor!

The Pamphlet, intitled "Peace and Union, &c." was published in the middle of February; at a time when the people of England were deluded by false reports of secret enemies. Advantage was taken of this circumstance, by a cabal formed against me—By a pretended gang, usurping the power of the Vice-Chancellor and Heads of Colleges, violating the Statutes, and having no right to examine into the contents of the pamphlet. They have assaulted me by every art—They have ransacked my Letters—Betrayed my private conversations—They have even summoned against me my Relation! my bosom Friend!—Private notes were handed about from college to college—they travelled from St. John's to Dr. Kipling, taking Caius College in their way, where they were read by Mr. Belward.

Thus attacked, I was not forsaken by my friends, they cheerfully came forward to give me their support, and I shall always reflect on their generous attachment with triumph, and remember it with gratitude to the latest hour of my life.

— Animæ, quales neque candidiores,  
Terra tulit; nec quis me fit devinctior alter.

Among the arts my enemies have employed to prejudice the minds of the public against me, they have represented me as unworthy to breathe—as an Atheist—an Infidel.—My opinions are Philosophical—The Charge of Atheism I refute, by asserting in the words of the Church, my belief: that there is but one living and true God, everlasting, without Body, Parts, or Passions; of infinite Power, Wisdom, and goodness; the Maker  
and

and Preserver of all things both visible and invisible—Such is my Belief. The Charge of Infidelity I refute by asserting my belief, that Jesus Christ is the Saviour of Mankind, the only Mediator between God and Man, through whom alone I as well as you expect Salvation.

My third opinion is, that it is the duty of all who profess themselves Christians, to be benevolent to all men.

After having endeavoured to traduce my Religious Character, they have also attacked my Political. I have been represented as an Enemy to Government, a Republican and a Leveller; Characters not to be found in a Man of Education and Literature. Is it to be supposed, that any man can be a Leveller whose pursuits are entirely literary, and who would have no means of support were the leveling system to prevail? Were I disposed to be a Republican, I should not be the less satisfied with our Constitution, which is more republican than that of any country, where I have travelled; some few Cantons of Switzerland, only excepted. If indeed, he who wishes the Commons to have a proper weight, is a Republican, I acknowledge myself one: At the same time I allow that certain Powers and Privileges are given to the Chief Magistrate, and to the House of Peers.

I rejoiced at the success of the French Revolution—but when was it that I rejoiced? It was at a time when a Predecessor of the Vice-Chancellor had given out the Demolition of the Bastille, as a subject of Triumph and Congratulation! Which of us indeed did not applaud the first steps in that Revolution, or who does not view with horror their late conduct? Our Governors having now entered into a War with the French, has made me silent.—I have been charged with maintaining a Correspondence with the Convention; which, if true, I should have no Reason to disavow; but I declare it to be false, both as it respects myself, and other Members of this University involved in the same Charge. I declare from my own knowledge that no such Letter or Correspondence ever passed between me or them.

## II.

I now desire that the Second Article may be read—"You the said William Friend, M. A. did publish and cause to be dispersed within this University a scandalous Pamphlet, intitled Peace and Union, &c." [See Page 10.]

The Promoter did well to deprecate all *personal* reflections, after charging me with being the Author of a *scandalous* Pamphlet.—To be sure this is not *personal* at all!

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—The word *scandalous* is not at all *personal*! He had good reason to desire that no *Personalities* might be used.—If I chose to be *personal*, I might say, that Dr. Kipling by a recent Publication had disgraced the University.—Had I professed to publish a *Fac Simile* of a M. S. and really produced a *Fac Contrarium*, that would have been *scandalous*—had I prefixed to it a preface, the Latinity of which was derived from Beza, and not from Cicero, that would indeed have been a *scandal* to the University. As to the Pamphlet in question, I know it is not scandalous in the opinion of many Members of the House of Lords, many Members of the House of Commons, many Members of this University.

Evidence of Authorship is either external or internal. External from the Author's Declaration, or from Witnesses; the former not producible in a Court of Justice, because no Confession before Trial is valid. The validity of Witnesses must depend on their character; and in works of Literature on their Competency. The ignorant and illiterate are not competent.

Internal evidence is derived from the book itself; from a similarity of style with a person's public speeches, or his publications. For Example. If the Promoter's Preface had been brought to me; from the elegance and purity of style so much resembling, what I have often heard him utter in the Divinity Schools and in the Pulpit, I should certainly have concluded that the Writer could be no other than Dr. Kipling. But such proof, however satisfactory among Men of Letters, cannot be admitted in a Court. And for this reason the Promoter was not allowed to produce other Pamphlets, said to be written by me.

It has been argued, that the Pamphlet intitled "*Peace and Union*" was written by me, because my Name is in the Title Page. In confutation of this Argument, I produce a Volume of Sermons, which in the Title Page are said to be by Dr. White, but which were the joint production of a Dissenting Minister and a Member of this University. Again, another Example occurs in the Promoter's Publication—*Codex Theodori Beza Cantabrigienfis*—I do not pretend to a deep Knowledge of the Latin Language, but I have been told by those who have a better Title to the Name of Critic, that the Words are to be construed thus. *Codex*, the Book, *Theodori Beza*, of Theodore Beza, *Cantabrigienfis* a Cambridge Man: therefore, if any Faith is to be given to Title Pages, Theodore Beza was a Cambridge Man—Now if any *twenty seven* should take a Dis-

gust

gust at a particular Passage in this Book, and, learning from the Title-page that Beza was a Cambridge Man, should cite him into the Vice-Chancellor's Court, Beza would be returned, non est inventus—but if he cannot be found—he is not the Author.

Some time ago, Epigrams, reviling the Vice-Chancellor and Heads of Colleges, were attributed to a celebrated Mathematician, who found it necessary, in a public Manner, to disavow them. These were the Production of a Gentleman famous for his eloquence.

But the Title Page was in my own hand writing!

This is no Evidence that I am the Author. I might be employed as a Copyer by the Author.

But I delivered the Pamphlets for Sale!

Persons often deliver the Pamphlets of other Authors: Thus during the Discussion of the Test Act, I dispersed many Copies of Bishop Hoadley's Tract. Indeed I have an Agent here whom I employ to send Books into different Parts.

The Witnesses produced by the Promoter were Booksellers, Bookseller's Boys, and a Mr. Lloyd—The Promoter failed in his Proof that the Copy exhibited in Court, was one of the twenty brought from my Chambers: For Mr. Lunn did not affirm that all the Copies which he had from Bowtell were sold before his Journeyman came to my Chambers for more.—The Printer was called to prove that the Advertisement of the Pamphlet was by my Order—he said, that after the first Advertisement, he received a Note ordering a second Advertisement. Being asked whether the Note was in my hand writing, he would not swear to it, though he has seen more of my hand writing than any other Person whatsoever. He had some Regard for an Oath!—Two Witnesses of the University were then found

—————Arcades ambo,

Et jurare pares et respondere parati,  
who both immediately swore to the Hand-writing.

Now for the catechising of Mr. Lloyd!

Enter Mr. Lloyd.

Dr. Kipling. What is that you have in your hand?

Answer. A Book.

Dr. K. What Book?

W. "Peace and Union"

Dr. K. Where did you buy it?

W. At Mr. Lunn's,

I

Dr. K. For

Dr. K. For what purpose?

W. For the purpose of bringing home the charge against Mr. Friend.

Thus did he confess, that he was prepared by the Promoter, and came for the express Purpose of convicting me!

My Accusers bring their second Proof from Letters which passed between me and Mr. Watson, but there is no proof from them: for nothing contained in the Letters substantiates the Book—The Notes written by Mr. Watson *only* speak of the Book as *published* by me. Great stress has been laid upon a Passage in one of my Notes, but what does it prove? Let us read it and judge—"Mr. Friend did *not*, in his former Note refer to his Publication." Now observe the Manner in which I am proved to be the Author—I do *not* refer to the Book, and therefore it *must* be mine! Nothing in the World can be clearer.

In the Course of Mr. Watson's Examination, an honest Countryman, as I am informed, being struck with the frequent Repetition of the Words "Wool and Wool-Spinning;" and somehow unaccountably concluding that Mr. W. was the Person under accusation, exclaimed, Ah! the Matter's plain enough: Poor Man! he *partenly* stole the Wool!

The Witnesses are all inadmissible because they are of the *twenty seven*.—Against one of them I have a Charge of a more serious Nature, which I bring forward with Concern—He has disgraced himself in the Face of the Court. I will not trust to my Memory, but will read his Words as I have set them down.

"The studied Attentions which Mr. Friend shewed to me, as he did I believe to all those whom he wished to proselyte to his opinions, &c." (See page 33) This is a Charge heavier than any brought against me by the Promoter, and which I could have refuted from Mr. Kilvington's own Letter if I had been permitted to produce it. I was then Tutor of a College, and however lightly *others* may think of the office of a Tutor, I have too high an opinion of the sacred Nature of that office, to think of enforcing my particular Tenets, on those committed to my Care. Besides, who are they that were addicted to making Proselytes? The Scribes and Pharisees, who compassed Sea and Land to make one Proselyte! What is their Character? We are told by Christ himself that they were Hypocrites. There is a set of Men, to whom this Imputation may be more properly applied, who imitate the Pharisees of old  
with



with their melancholy countenances, and their long Prayers.—The Charge of making Profelytes when applied to me is evidently false.

The Distribution of Books is no proof of Authorship. I have distributed in the last 6 or 7 years no fewer than 10,000.

I cannot conceive for what end Dr. Dickens was cited. He is an elderly gentleman, who has often afforded us amusement in the Combination Rooms at Christmas, and with whom I frequently divert myself. His Evidence amounted to this. He came to the Printer's at St. Ives, where I was, took up a Copy of Peace and Union, and carried it off, which is the same thing, he maintains, as if I had given it to him.

But were every thing else valid, the Court cannot proceed to pass sentence upon a Record, which has been in the hands of the Promoter.

The civil Law requires Evidence to be in Writing. The common Law allows no Evidence to be heard out of Court; (Case of Metcalfe and Dean.) The Jury after going out of Court sent for a Witness to re-examine him privately: The Judge set aside their Verdict, although the Evidence was not alia aut diversa.

Dr. Kipling has been guilty of many Informalities, in reminding Witnesses, what they had before deposed,—preparing them—calling them and recalling them. Besides the Witnesses were examined in each other's Presence; nay even confronted to prove personal Identity (in the case of Merrill's Maid and Bowtell Jun.) Moreover one of the Witnesses is a menial Servant of the Promoter, and therefore not admissible.

*Testis non est, cui imperari potest.*

Hand-writing is not to be allowed as Evidence, from the case of the seven Bishops—And from the case of that great man Algernon Sydney. Others of the Witnesses were not admissible, because, *Nemo in propria Causa est idoneus*, Lloyd and Kilvington were among the original accusers; and the latter not to be credited because he had uttered a deliberate Falsehood; and as he was false in one fact, it was fair to conclude, that he was false in all.

Here Mr. Belward rose and said,

Mr. Vice Chancellor, I beg leave to observe, that Mr. Friend's assertion, that private Notes sent from St. John's College to Dr. Kipling, had on their Way, been read by me at Caius College, is a Falsehood.—I never saw them.

Mr. Friend replied, Perhaps I was misinformed—I ask Mr. Belward's Pardon. It is a matter of no consequence.

The Testimony of Mr. Plampin and Mr. Mathew is not to be admitted, *both* as being of the 27, and as having sat as my Judges, and condemned me in my own College. I here repeat my Objection to the Minutes, as having been taken out of Court by the Promoter. (The Commissary informed Mr. F. that these Minutes were only helps for the Court, and were not matter of Record. The Vice-Chancellor asked the Registry whether the Minutes had suffered any alteration. He answered that he had examined them carefully, but had found none.)

Here Mr. F. gave in the following Protest against the Minutes.

Protest of the under-signed against the Validity of the Evidence in this Cause.

The Witnesses cited by the Promoter in this cause, having been examined in the Court upon Interrogatories proposed by the said Promoter, and taken down in writing by the Registry of the Court before they were put to the Witnesses, and the Answers of such Witnesses having been also taken down by the Registry, the Evidence of the several Witnesses so recorded by the Registry ought to have been kept in Court as an official Minute of such Evidence: but the original Minutes of the Evidence, as taken in Court, having been delivered out of the hands of the proper Officer, and put into the custody of the Promoter, I do protest against such Evidence, and do declare that it has lost its Authenticity, and cannot be considered as the same Evidence, or ever be made, either in this Court or any future Court of Review, the Foundation of a Judicial Decision.

W. FRIEND.

Signed by W. Friend, May 24,

1793, in the presence of me,

GEO. BORLASE,

Notr. Publ. and Registr.

### III.

Mr. Friend desired that the third Article might be read. "You have defamed the public Liturgy of the established Church, by affirming that it is very far from that standard of purity in Doctrine, which is required in such Compositions." (See page 10.)

I ask, is the Liturgy a divine or a human Composition? If divine, it would be profane to accuse it of Imperfection; but

but to style a human Composition defective—will any one pretend to say that that is defamation? Every Man has a Right to form his private Judgement on such a subject, and the Promoter, from his standing and station, may be supposed a better Judge than I can be. If I had said that the Liturgy was deficient in purity of Doctrine, I might have appealed to Archbishop Sancroft, who on account of the burial service, would never take Cure of Souls—to Archbishop Tillotson, who wished we were well rid of the Athanasian Creed—to the Margaret Professor, who reprimanded Dr. Pearce, when Fellow of St. John's, for reading in Chapel the Athanasian Creed. (Here the Professor arose and said, "It is false! I can take upon me to say, "that I never censured Dr. Pearce for reading that Creed.") To the Bishops of London and Ely, and to all the Petitioners for the Reform of our Articles.

If I had said, there were Imperfections, I might be justified by the Mis-translation of the Psalms, "Let his Wife be a Widow, let his Children be fatherless, and let the Extortioner take all that he hath." (Psalm 108: 9, 10.) Is there any Man here, who would wish so much ill to the worst of his Enemies? Did those words come from David? Will any Jew repeat those Words? Any one that understands the original will not be deceived by this Error of the Translators. I might also instance the antiquated Language of the Collects: "Prevent us, O Lord, in all our doings"—when the design was, to invoke the *succour* of the Almighty. These and other Passages might be altered with advantage, for common use.

I might appeal to Royal Authority, that of James I. when King of Scotland. "Our Neighbour Kirk has a Liturgy much like the Mass; it wants only the Liftings." It appears that the above Royal Personage was not acquainted with the excellencies of the English Liturgy at that time, for he afterwards altered his sentiments. The English Liturgy, when considered collectively, is far superior to the Romish, Greek, or Hebrew; but still it cannot be denied, that other Services are in some parts superior to the English: thus in the passages out of the New Testament, the Greek has the Advantage: in the Psalms, the Hebrew. But I beg it may be understood that I maintain, that on the whole, our Liturgy is superior to any other established Liturgy.

In this third Article, the Promoter is guilty of a false quotation, for he has omitted *Arrangement* and *Language*, and retained only *Doctrine*. If any Person should say that  
the



the Vice-Chancellor was too remiss in some particulars, in others too strict, and in many unexceptionable; he would by no means be considered as charging the Vice-Chancellor with culpable Neglect in the Execution of his Office, taken collectively.

Now it may be true, that the Liturgy is far from the standard of Purity on three Accounts taken *conjointly*, and yet it ought not to be inferred, that the Author charges the Doctrine taken *singly*, with being far from that standard. When the Promoter was asked his Reason for the Omission, he replied, because he did not understand the meaning of Purity of Arrangement. He might have improved his Understanding if he had consulted the Margaret Professor, who in the preface to his Sermons has explained it. If he would now and then look into those vile authors, Virgil and Horace, whom I confess that I sometimes peruse, he would have read,

—————Cui lecta potenter erit res,  
Nec facundia deserit hunc, nec lucidus ordo—

#### IV.

I desire that the 4th Article may be read.

(In this Mr. Frend is accused with charging the Church of England with Idolatry.) See page 10.

This Charge is quite ridiculous. I am inclined to conjecture, that the Promoter has been imitating the Example of a Spanish Promoter, (as described in the celebrated Novel Gil Blas) who attended by his Accomplices, and dressed as the learned Promoter is, in a black Gown, in the Garb of the Holy Inquisition, knocked at an honest Man's Door, and enquired of the Boy—Does your Master eat Pork? I do not remember that he does. Write down that he is a notorious Jew. You doubtless eat Lamb sometimes. Yes sometimes, we had some last Easter. Write down that he keeps the passover. Is he fond of Children? Yes, very fond—Write down that he seduces Children into his house to cut their Throats. Does he spend one day of the week in total inaction? He shuts himself up on some days in his Closet for a long time—Ah ha! he keeps the Sabbath! Write down that he sabbatizes. Thus the Promoter, and his Familiars, assembled with a determination to find out some Charge against the Pamphlet. For some time, he sought without success. At length, a Gentleman famous for his eloquence found out "Orgies of Bacchus" Instantly there was a Cry, write down, Idolatry—What more? "Rites of the Eucharist" Write down, he derides the Eucharist.

However

However ridiculous this may appear, the Intention was not less malignant. Let the Promoter blush when he reflects on it! Have I indeed been guilty of coupling the Orgies of Bacchus with the Rites of the Eucharist? He may indulge in the former, but let him not accuse me of profaning the latter, which I revere as an Ordinance instituted by Christ himself.

I am accused of degrading the Clergy, but it is clear that the Pamphlet does not speak of those of the Clergy of England, among whom are many of my Friends, and who do no Discredit to the sacerdotal Function. I am represented as an Unitarian. I affirm that the Church of England is so. I never met with more than one Person who maintained the contrary. The Promoter contends, that by the great Body of Christians is intended Churchmen and Dissenters, but they are far from a majority. Has he so little Knowledge of Ecclesiastical History as to be ignorant of the Greek and Romish Churches? I never called the Church of England idolatrous, I disclaim all such Language, as applied to it, and I actually did leave a Society to which I once belonged, because they would not desist from doing so.

## V.

The fifth Article read. (See page 10.)

You affirm, in Page 39 of the said Pamphlet, that ecclesiastical Ranks and Titles, are all repugnant to Christianity.

In this Article Ecclesiastical Dress is left out: I could not understand why, until I found upon reading the Canon, that the Promoter was irregular himself in this Particular. (Reads part of the Canon as follows):

All Doctors in Divinity, Law, &c. shall usually wear Gowns with standing Collars and Sleeves, strait at the hands, or wide Sleeves as is used in the Universities, with Hoods or Tippetts of Silk, &c. We do further in like Manner ordain, That all the said Ecclesiastical Persons above mentioned, shall usually wear in their Journeys Cloaks with Sleeves, commonly called *Priests Cloaks*, without Guards, Welts, long Buttons or Cuts. And no Ecclesiastical Person shall wear any Coif or wrought Night Cap, but only plain Night Caps of black silk, fatten, or velvet. And that in public they go not in their Doublet and Hose, without Coats or Casocks, and that they wear not any light coloured Stockings.

Now I have seen him in spite of the Canon riding to the Hills, without his *long Cloak*, in his Doublet. Besides the

Canon

Canon says, that the Clergy shall wear no light coloured Stockings, in which the Promoter now appears, in defiance of the Canon.

I deny having asserted that *all* Ecclesiastical Courts are repugnant to the Spirit of Christianity: There certainly is a Court which is repugnant to the Spirit of Christianity. The Inquisition. There are ecclesiastical Ranks repugnant to the Spirit of Christianity: the Pope and those Ranks in which the Clergy claim superiority. The Clergy of England all take the Oath of Supremacy—In this Country the King is the Head of the Church—The Passage then has no Relation to them.

Vice-Chancellor. Do you affirm that the Church of England is not intended in that Passage?

Mr. Frend. Some Ranks and Titles are not repugnant to the Spirit of Christianity. Presbyters, Bishops and Deacons are not repugnant to Christianity, being appointed by the Apostles themselves. Some Courts also are not repugnant to Christianity, when they excommunicate a Man for Misbehaviour—for St. Paul himself did so—The Passage is falsely quoted, a Method by which any thing may be proved out of any thing. Thus it may be proved even from the Scripture, that there is no God—But if any one examines the Passage, he will find, that none but a Fool would have said so. Thus Suicide may be defended: In one place I read, Achitophel went and hanged himself: and in another it is said, Go thou and do likewise—A piece of Advice which I do not mean to give to the Promoter.

He has made three alterations in this short extract, inserting *one* word and leaving out *two*. The word *hence* which he omits, plainly refers to the preceding sentence, in which the Romish Clergy are described as claiming Superiority over the Laity. The construction of the passage is this: Hence (*viz.* from the affectation of superiority) all those Courts, which are repugnant to the Spirit of Christianity.—Again in the preceding passage (page 36) to which *hence* refers, the Christian World spoken of, is said to have existed 1400 years; the passage therefore does not relate to the Church of England. The doctrine as applied to Protestants I disavow.

## VI.

The Sixth Article read (See page 11). That in page 39 you have ridiculed and reviled the Offices of Religion, &c.—The Laity like brute beasts, &c.

I scarcely know what answer to make to this Charge.—  
The



The Promoter said nothing in explanation of it. I approve of the Rites of the Church of England; the Ministers who perform them are men of Education, and perform them with proper solemnity. Not with an usurped authority, as those mentioned in the Pamphlet, but by the authority of the people, declared by act of parliament. The passage evidently refers to the Church of Rome. It is in the Romish, not the English Church, that Marriage is held to be a Sacrament. The Church of England has no office of Sprinkling. It is the Burial of the Church of Rome which has a Spiritual Incantation, and the words, Another Spiritual Incantation, refer to the former one, viz. the Sprinkling with Holy Water. The Rites performed by our Clergy are all calculated to impress those of the same communion with pious sentiments. The charge really relates to the Priests, rather than to the Rites of Religion — for the latter the Promoter has no great regard, though he stands up for the dignity of the former.

#### SUMMARY.

The Liturgy being uninspired must be imperfect: it is no disparagement to it, to say, that it has suffered in its arrangement, that its style is sometimes rude and antiquated, and should it be affirmed, that its doctrines are far from the standard of purity, such assertion might be justified by many authorities. Tillotson, Sancroft, Bennett, Stebbing, Porteus, Yorke, Paley. Dr. Kipling in his Prolegomena indulged himself in a fling at those who held the Inspiration of the Evangelists; and now would atone for it by ascribing Inspiration to the Liturgy. If I could bring myself to cite passages from him, with as little delicacy, as he has cited witnesses, I should not doubt of equal success. *The great Body of Christians*, must refer to the *Catholics*, else what is the meaning of that admonition? "Let Churchmen and Dissenters examine (page 38) how far they have deviated from the true faith?" It is true, some Dissenters have brought the charge of Idolatry against the Church of England, but I have ever and still do express my disapprobation of such a charge. If the assertion (page 39) be understood of all Ecclesiastical Ranks and Courts, it is evidently absurd in itself, and contrary to scripture, which enjoins Excommunication, and specifies the ranks of Deacon, Presbyter, and Bishop. I believe these ranks to be consonant to the Spirit of Christianity. To say that I think them repugnant to it, is a vile calumny. The passage was incapable of such a construction, without separating

rating it from the context, by omitting the word *hence* and inserting *are*. The article deserves no reply, from the garbled state in which the passage is quoted. In the same manner, he has perverted the passage at the bottom of the 39th page. Do the *English* Laity sit patiently under the dominion of Priests like brute beasts? Has the *English* Church any office of Grace at Meals? The Author of the Pamphlet seems well acquainted with the *Romish* Church. The Expression, "another Spiritual Incantation," alludes to the Sprinkling with Holy Water.

Exsufflo te immundissime Spiritus in Nom. Pat. &c.

Exorciso te si qua incurset Diaboli Tentatio.

In their Burial Service they have another Incantation—Enchanted Water.—*Parva Crux super pectus—aspergitur Corpus aquâ benedictâ*; not to mention their signing with the Cross, and burning Incense.

The Expressions in the 40th page shew, that the *Romish* Church was intended—In that Church, not in the *English*, the Clergy derive benefits from the superstitious prejudices of the Laity, and the people are permitted to indulge in immoral practices from the Hopes of Absolution. The Gentleman in Black, refers to a Clergyman distinguished from his Fellow Citizens.—The *English* Clergyman is a Citizen.

## VII.

Read the Grace of 1603.—The Proctor of the Court replied, that this Grace is not to be found.—The Grace Book was sent for and examined without finding the Grace.

And will the University look on with Patience, when one of its Members is accused of violating a Law which is known to have no existence? Or if it ever had, has not been acted upon these 190 years. The insertion of the 45th Statute in this Article, is an Insult upon the Vice-Chancellor, the Court, and the whole Senate. The Promoter must know that the Vice-Chancellor could act upon that statute *only* with the concurrence of the Heads of Colleges; in a Court, different also from that, into which I have been cited. But every right of an Englishman has been violated in this Trial. Would the Promoter and his twenty-seven wish to revive the Dissentions which tore the University in 1603? We are now too liberal, I trust, to devote a man to destruction, because he is of a different opinion in Philosophical, Political, or Religious Subjects.

I shall not enter into the consideration of the 45th stat. upon which I can be tried *only* before the Vice-Chancellor

cellor and Heads, but the Promoter has precluded that measure, by citing me into the Vice-Chancellor's Court.

The Vice-Chancellor reminded Mr. Frend, that the Grace of 1603 exists in the Vice-Chancellor's Book.

Exists! But how? it is subscribed, "Ita Testor," without a Name. The Registry of that day being compelled to insert it, but too honest to subscribe to a falsehood.

### CONCLUSION.

I have proved that the Articles, even supposing me the Author of the Pamphlet, are without Foundation: that I have not defamed the Liturgy, charged the worship of the Church of England with Idolatry—called Ecclesiastical Ranks, Courts, &c. repugnant to the Spirit of Christianity, or reviled the offices of our Church.

I postpone the consideration of the 45th Statute till I am called upon *publicè confiteri*. As to the Grace of 1603.—"De non apparentibus, & non existentibus eadem est Ratio." Even if it could be found, it is so worded as to shew, that it never was intended to bind posterity; for the words *pro statuto habeatur* are omitted, as well as the words, *in posterum*.—It is not "*si quis in posterum oppugnaverit*," but "*si quis oppugnaverit*," and relates to past, not future offences. At most, it was of a temporary nature, and like the late Alien Bill, and that against Traiterous Correspondence, to be confined to particular times and circumstances. I might also contend, that the Senate has no power to enact a Grace of a penal nature such as this—and that if it had, this Grace would be null, because, as the Vice-Chancellor confessed, it *detrahit statutis*, by altering the penalty.

The Case of Chark, 1572, was produced by the Promoter.

I would ask him these Questions.

Who was the Promoter in Chark's Case?

Were Mr. Chark's Relations cited against him?

Were Private Letters produced against him?

Were references made to other Books of the same Author?

Were the Minutes put into the hands of the Promoter?

Did any person of Rank in the University promote the office of the Judge, to gain preferment, or to gratify a persecuting spirit?

No Pamphlet Political or Religious, can have a pernicious consequence. It must be a weak government, that can be shaken by a Shilling Pamphlet!



Mr. Frend having finished his Defence, the Promoter replied in words to the following purpose:

R E P L Y.

He said that what he had to observe on Mr. Frend's Defence, should be confined to the following heads.

1. That the Extracts from the Pamphlet in Question, did not refer to the Errors of the *Roman Catholic Church* exclusively.

2. That the Prosecution was not malicious.

3. That the Defendant's objection was not well founded; namely, that the Laws, upon which he was prosecuted, were *obsolete*, and therefore ought not to be enforced.

4. That the Witnesses were unexceptionable.

1. That the Author of this Pamphlet, had not in his view the Errors of the *Romish Church*, will be evident from hence, that his Pamphlet contains advice to the associated Bodies of Republicans and Anti-Republicans, that is, to British Subjects, who have no power to reform *that Church*.

2. To refute the charge of malice, it would be necessary only to mention, that by means of a common friend, (Mr. Marsh) he had pointed out to the Defendant, the manner in which he believed his Peace might be made with the University, which was, by publicly acknowledging his offence, in speaking so degradingly of the established Church, and its Ministers, and by promising not to repeat this offence.

3. Dr. Kipling observed, that even admitting the Statutes, mentioned in the Eighth Article, to be *obsolete*, it would by no means follow, that they ought *never* to be enforced. The enforcing of a Law depends upon circumstances—On some occasions it may be more prudent to connive at an offence, than to bring the offender to Justice. But there are times, when such connivance would be criminal, as pregnant with the worst of consequences.—What was the state of this country when the Pamphlet was written? What was then the situation of our established Government?—Not only of our Political, but of our Ecclesiastical Government? Was it ever known, since the beginning of this century, to be in greater danger? Was not the *chief* cause of this danger the circulation of seditious and treasonable Pamphlets? Was not this danger increased to that alarming magnitude, by the unremitted industry of certain Writers, to infuse the Spirit of Disaffection into the public mind? And has not *this* Pamphlet the same evil tendency?

Dr.

Dr. Kipling then proceeded in assuring his audience, that he would not have called on this Court to enforce either the 45th Statute, or the Grace of 1603, on a common occasion; but that the times had of late been extraordinary, and demanded extraordinary exertions.

4th and Lastly. With regard to the depositions of Mr. Plampin, Mr. Kilvington, and Mr. Lloyd, which were objected to by the Defendant, could it be conceived, that three Gentlemen of liberal Education would appear before that, or any other Court, *knowingly*, to perjure themselves? But the Court had been told, that the Testimonies of these Gentlemen could not be allowed, *because* they agreed with thirty other Members of the Senate, to prosecute the Defendant in the Vice-Chancellor's Court, and were therefore *Parties* in that Cause.

Now, such a principle as this—that the Testimony of an *interested* person is never to be admitted, tends to subvert all civil society whatever. For instance, in prosecuting an Assassin, not only the friends of the person assassinated, but all their Fellow-Citizens are interested in the Event.—It is a public offence—The body politic is injured. Granting, therefore, this principle, that none should be suffered to give Evidence in a Cause, but such as are *uninterested*; it would follow that in a Trial for Murder, you can have no Witness whatever, *all* being concerned—*all* being parties in the cause; and thus every murderer would escape with impunity.

To apply this to the present occasion, Dr. Kipling observed, that the Defendant had been prosecuted as the Author of a *Libel*, on our Ecclesiastical Polity, and our established Religion. He said, that Mr. Frend was not brought before that Court to answer for a *personal* insult; offered either to himself, or to any other gentleman concerned with him in that Trial. Far from it—he had offended the feelings of humanity, in sarcastically terming our solemn interment of the dead, “a Spiritual Incantation.” He had defamed the Established Church, by charging its worship with *Idolatry*. He had even dared to insult Christianity itself, by coupling its most sacred ordinance with a Bacchanalian Revel. Such then being the nature and extent of his crime, that *all* were *interested*,—*all* were *Parties* in this endeavour to punish it, and to check its pernicious influence: It followed from what had just been said, that no person whatever, even of common veracity, much less those three Gentlemen, ought, on that account, to be rejected as *partial* and improper Witnesses.—And it must also

also be evident, that it was a duty incumbent upon every one, to endeavour, as much as in him lay, that offences of this magnitude should not escape with impunity. This duty then, the Promoter observed, he had fulfilled to the utmost of his ability, and had only to add, that he should always gratefully remember with what patient attention the Court had listened throughout that long trial, to the Witnesses and the Arguments, produced by him, in support of his charges against the Defendant.

Mr. Frend made a short reply, in which he adverted more particularly to the first head of Dr. Kipling's remarks, and observed, That if Dr. Kipling had read the Pamphlet with due attention, he would have discovered, that the discussion of religious subjects is called a digression, at the bottom of page 41.

To the second Remark he replied, that he asked Mr. Marsh, if he came with any authority to negotiate with him? that Mr. Marsh replied, he had not—that Mr. Frend was to consider what was then advanced, as Mr. Marsh's advice *solely*.—Mr. Frend here observed, that for him to make any such acknowledgement as was required, would have been in effect to acknowledge himself the Author, without any security of avoiding the prosecution.

The third Remark was founded upon a presumption of danger, which never had any existence, and in fact was only a fiction.

That with respect to the Witnesses being described in the fourth remark, as unexceptionable, he had already proved that several of them were inadmissible.

Mr. Frend then delivered to the Vice-Chancellor, a written Copy of his Defence, which he desired might be for the perusal of himself and the Heads only.

The Court was then adjourned to Tuesday next, the 28th inst. at 11 o'clock in the forenoon.

#### SEVENTH COURT DAY.

At a Court holden before the Right Worshipful Isaac Milner, D. D. Vice-Chancellor of the University of Cambridge, J. Smith, R. Farmer, W. Colman, L. Yates, J. Barker, Peter Peckard, Jos. Turner, Fr. Barnes, W. Craven, and J. Postlethwaite, Doctors in Divinity, and John



John Fisher, L.L. D. his Affessors, on Tuesday the 28th of May, 1793, between the hours of eleven and one, in the Senate-house of the said University.

Me present.

GEO. BORLASE,

Not. Publ. and Registr.

The Office of the Judge }  
promoted

By Thos. Kipling, D. D. }  
against

William Frend, M. A. and }  
Fellow of Jesus College.

On opening the Court the  
Commissary read a sentence  
from Mr. Frend's written  
Defence, (which he had given  
into Court on the last Court-  
Day) which sentence ap-  
peared liable to misconcep-

tion, and he then asked Mr. Frend, whether he wished or intended to be heard on the Statute "*De concionibus*," by the Court constituted as it then was? To which Mr. Frend answered—Certainly not.

The Vice-Chancellor then informed Mr. Frend, that having fully and maturely weighed and considered the charges brought against him by Dr. Kipling, the Evidence, and his Defence, he was of opinion, that he the said Wm. Frend, was proved the Author and Publisher of the Pamphlet, intituled Peace and Union recommended to the associated Bodies of Republicans and Anti-Republicans; and that by writing the aforesaid Pamphlet, and publishing it within the University of Cambridge, He, the said Wm. Frend had offended against the latter part of the Statute "*De concionibus*," beginning with the words, "*Prohibemus ne quisquam, &c. &c.*"

Then the Vice-Chancellor, with the assent of the major part of the Heads of Colleges, as is required by the Statute, directed Mr. Frend to retract, and publicly to confess his error and temerity in the following manner:

"I WILLIAM FREND, Master of Arts, and Fellow of  
"Jesus College in the University of Cambridge, do ac-  
"knowledge, that by writing a Pamphlet, intituled "Peace  
"and Union recommended to the associated Bodies of Re-  
"publicans and Anti-Republicans," and by publishing the  
"same within the University of Cambridge, I have  
"offended against the latter part of the Statute "*De con-*  
"*cionibus*," as expressed in the following words,

Prohibemus ne quisquam in Concione aliquâ in loco  
communi tractando, in Lectionibus publicis, seu aliter pub-  
licè infra Universitatem nostram, quicquam doceat, tractet,  
vel defendat, contra Religionem, seu ejusdem aliquam  
Partem, in Regno Nostro publicâ Authoritate receptam  
et

et stabilitam, aut contra aliquem Statum, Authoritatem, Dignitatem seu Gradum vel ecclesiasticum, vel civilem, hujus nostri Regni, vel Angliæ vel Hiberniæ.

“ I do therefore, by the direction of the Vice-Chancellor, with the assent of the major part of the Heads of Colleges, retract and publicly confess my error and temerity, as the said Statute requires.”

Mr. Frend objected to reading the Recantation, as he affirmed, that he did not perfectly understand the meaning of some part of it.—The Vice-Chancellor said, that he should have no objection to allow him time to consider it fully, and ordered the Court to be adjourned to Thursday next, the 30th inst. at 9 o'clock in the forenoon; and Mr. Frend was warned by the Vice-Chancellor, then and there to appear, and to read the form before written.

### EIGHTH COURT DAY.

At a Court holden before the Right Worshipful Isaac Milner, D. D. Vice-Chancellor of the University of Cambridge, J. Smith, R. Farmer, W. Colman, L. Yates, J. Barker, Jos. Turner, Fr. Barnes, W. Craven, and J. Postlethwaite, Doctors in Divinity, and John Fisher, L. L. D. his Assessors, on Thursday the 30th of May, 1793, between the hours of nine and eleven o'clock, in the Senate-House of the said University.

Me present.

GEO. BORLASE,

Not. Publ. and Registr.

The Office of the Judge  
promoted  
by Thos. Kipling, D. D.  
against  
William Frend, M. A. and  
Fellow of Jesus College.

Mr. Frend appeared, and the Minutes of the last Court were read.

The Vice-Chancellor addressed Mr. Frend, and said, that he he hoped he had considered the Form of Recantation,

which had been given him on the last Court-Day, and that he was now ready to read it.

Mr. Frend then arose, and began to read a different paper, when the Vice-Chancellor called him to order.

Mr. Frend said, this paper relates to the Explanation of some things which I do not understand. The Vice-Chancellor refused to hear him read it, but received the paper, and the Heads consulted on it.

The Vice-Chancellor informed Mr. Frend, that they adhered to their former opinion; that they had examined the paper, which did not contain any thing that could induce

induce them to change that opinion.—Mr. Friend said, that he did not understand what his error was; and still persisted in maintaining, that it did not appear how he had offended against the Statute "*De concionibus*."

The Vice-Chancellor then said, Mr. Friend, you was heard in your defence for five hours, without the least interruption; and I would have listened to you with the greatest patience and attention for five hours more, if you had chosen to have pleaded upon the Statute "*De concionibus*."—You refused to do so at that time—and now, that you are convicted of having offended against the Statute, you cannot be heard any longer. By the Statute it is left to the Court to prescribe the manner of Recantation, and you must now answer simply, whether you will read the Form prescribed to you or not.

Mr. Friend. Am I to read this RECANTATION as my own?

Vice-Chancellor. Yes.

Mr. Friend. Read that Recantation! I would as soon cut off this hand!

Mr. Friend then delivered the following Paper, which he said was in Bar of Sentence, and asked the Commissary, whether as a Member of the University, he could not insist upon his Privilege, that the Paper should be received in Bar of Sentence?

The Court received the Paper, and read it, but did not allow the Plea.

WHEREAS I WM. FRIEND am accused of having offended against a Statute of the University, by publishing a Pamphlet, intitled "Peace and Union, &c." sometime in the month of March, at the Close of the last Term, the following Form of general Absolution was pronounced by the Vice-Chancellor's Deputy, in a Public Congregation: I do hereby plead that Absolution, in Bar of any further Proceedings against me, on account of the said Publication.

Absolutiō in fine Termini.

Auctoritate nobis commissâ, nos absolvimus vos ab omni levi Negligentiâ, forisfactione, seu transgressionē Statutorum Privilegiorum & Consuetudinum, & Deo et Sacramentis Ecclesiæ vos restituimus in Nomine Dei Patris, & Filii & Spiritus Sancti. Amen.

W. FRIEND.

Exhibited in Court,

30th May, 1793,

GEO. BORLASE, Not. Pub. & Registr.

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THE



## THE VICE-CHANCELLOR'S SPEECH.

When the University elected me Vice-Chancellor in the month of November last, I acquiesced in their determination with much diffidence and anxiety. The discharge of the *ordinary* duties of this important office seemed incompatible with my indifferent state of health; and, if any *unforeseen* trouble or difficulty should arise in the course of the year, I considered myself as utterly unfit for the management and direction of it. I foresaw that, while the remains of my health might probably be wasted in a diligent and conscientious attempt to do the best in my power, my mind would also be agitated with this painful reflection, "the dignity of the office of Vice-Chancellor suffers, and the discipline and general interests of the University are essentially injured through my incapacity."

But, though apprehensions of this sort were naturally suggested by the circumstances, I still cherished a secret hope, that our Academical pursuits of learning and science might, for the present year, go on smoothly and without interruption, and our tranquillity be disturbed by no odious or troublesome investigation of the causes of irregularity or riot.

Little did I then imagine that, in the very short space of four months, so refreshing a hope was entirely to vanish, and that I should be *loudly called upon* publicly to animadvert, not upon the rash and intemperate fallies of an inexperienced Youth, but upon the premeditated and offensive conduct of a Gentleman with whom I had myself long been acquainted, whose standing in the University was very considerable, and for whose talents and attainments I entertain the most sincere respect.

Improbable, however, as such an event might be, it actually took place, and nothing remained for the Vice-Chancellor but the painful task of investigating the nature of the offence committed, and the punishment assigned by the Laws of the University, and of publicly explaining both, in the most open and perspicuous manner he was able.

On *such* an occasion, the situation of the Judge of this Court is not to be envied. *Our times, whatever* be the offence, are singularly unfavourable to the enforcement of rigid discipline, and, in regard to the degrading and vilifying of Establishments either of Church or State, by many it is scarcely supposed possible that an offence can be committed. Produce existing laws against such practices, and you are told that such laws ought never to have been made: that

that they are a disgrace to the country, that they are obsolete, and, perhaps, that you *dare* not enforce them. Others, with more temper and plausibility, admit that offences like the present are highly blamable in themselves, and that, if you could confine your punishments to such gross and indecent examples, there would be no room for complaint; but, say they, when you have once begun to inflict penalties for the propagation of *opinions*, there will be no bounds to the operation of such laws: unfair advantages will be taken by men of captious and arbitrary principles: the most inoffensive and laudable endeavours after improvement will be stifled: not a syllable must be uttered against what has once been established: the slightest objections and hints at amendment, either of our religious or political establishments, will be construed into a conspiracy against Government:—there is an end of the exercise of our faculties in the dispassionate enquiry and investigation of truth. Then the parties cry out, Persecution! Tyranny over the conscience! No freedom of discussion! And thus, under the fair disguise of moderation and liberality of sentiment, the *clamours* of the ignorant or the disaffected are to be an answer to every sober argument that can be advanced in favor of the most sacred and venerable institutions that are to be found in the history of mankind.

It is true, indeed, that such popular and delusive topics can produce no conviction of the judgement of thinking persons; but it is no less true that too frequently they influence our practice. The soundest mental constitution is never wholly secure against the contagion of opinion, and therefore the safest rule, in all these difficult cases, is to turn a deaf ear to every argument or suggestion that has a tendency to draw the mind from the direct contemplation of the point in question, and to pay not the least regard either to those who cry out, *Tyranny* and *Persecution*, or to those who cry out, *Sedition* and *Heresy*.

With such views and impressions I entered on the investigation of this unpleasant business.

It is a cause of the greatest importance. A bold and indecent attack has been made upon the religious institutions of the country: the Statutes of the University have been openly violated, and, if an offence of this magnitude be suffered to pass unnoticed, I think the very existence of the University may be soon endangered.

I do not deny that cases of libellous publications frequently occur, where it is much better to treat an impudent Offender with neglect and contempt, than to gratify

the obscure and deluded Author by bringing him forth into publick notice and inflicting that precise sort of Martyrdom which he has justly deserved, and is absurdly anxious to suffer. But I maintain, on the present occasion, that the case of Mr. Frend is separated and distinguished, by peculiar circumstances, from that class of offences, which, from motives of discretion, it might be proper to pass over in silence and contempt.

The Author of this Pamphlet is a person of considerable standing in the University, and we are all of us ready to bear testimony to his talents and attainments. He has been in the important situation of a public Tutor of a College. He resides a good deal among us, and by his zeal and his perseverance is well qualified to make impressions on the unsuspecting minds of youth. He is known to have objections to the established Doctrines of the Church of England, and if he be permitted thus to defame with impunity the solemn institutions of our Religion, and the public functions of the Clergy, I am sure that great use will be made of such forbearance and lenity: our Under-graduates will soon be taught to insult the doctrines and ceremonies of the Church to which they belong, they will believe them to be mere political contrivances, and they will conclude, that as we ourselves dare not support them, even when we have the law on our side, we also, as well as others, are convinced, that they are indefensible by reason, and are only induced to adhere to them from pusillanimity or self-interest.

Such, I think, is the natural inference which a sensible young man would draw from the silence and indifference of the governing part of the University, upon the appearance of such a pamphlet as this.

I may perhaps be told, that they are mere speculations of my own fancy—I instantly repel the insinuation by affirming a well-known fact, that a numerous and respectable body of this University, appear to have been influenced in a great measure by sentiments of the same sort. For while I myself was hesitating, whether, as Vice-Chancellor, I was not called upon *ex officio*, by a flagrant breach of public decorum, to animadvert, in a summary way, upon the Author of this Pamphlet, I was released from much doubt on this head by the application of thirty-four Members of the Senate, and most of them of distinguished reputation, who requested the Vice-Chancellor to take cognizance of an offence which appeared to them dangerous in its tendency, and degrading to the Clergy of the Establishment,



blishment. And here I *must* say, in justice to the laudable and zealous efforts of the respectable characters who stood forth on this occasion, that I think it *impossible to conceive* a business of this sort to have been conducted with less appearance of private animosity or resentment; and I feel myself bound to declare, that in the application of no one of those gentlemen could I discover the slightest trace of a wish to injure or distress Mr. Frend. On the contrary, every one explained the grounds of his application in the most distinct and guarded manner, professing himself to be solely influenced by a desire of maintaining the honour and credit of the University.

After having advanced so much respecting my own views and the motives of others, I suppose the minds of several who hear me may be disposed to object the inaptitude and irrelevancy of these reflections, and to suggest the propriety of proceeding directly to the consideration of the evidence, and to the administration of the justice of the case.

I openly and freely acknowledge the force of this objection, and if I have introduced reflections which seem, in a degree, foreign to the subject, it is only because great stress is frequently laid upon such topics, and particularly by persons who affect more than ordinary candour and liberality of sentiment. In order that arguments derived from such sources may have no more than their just weight and influence, I have been tempted to oppose this sort of reasoning by arguments of a similar nature.

Having freely acknowledged so much, let us now seriously and solemnly approach the cause itself.—Let us hear no more of Tyranny and Persecution on the one hand, nor of Heresy and Sedition on the other.

A grievous charge is brought against Mr. Frend, and, as Judge of this Court, I find myself bound by the most solemn obligations to enforce the Statutes of the University. I do not mean to insinuate in the slightest degree, that the 45th Statute is an unwholesome or impolitick law, but this I say, that in my present situation, I have nothing to do with explaining or justifying the policy of that law. I find it in existence and I am bound to execute it. Dr. Kipling, the Promoter of this cause, has not alleged that the offence comes under any general sweeping clauses of the Statutes, such as that it is *contra bonos mores, modestiam*, or the like, on which account I feel myself relieved from that embarrassment which naturally attends a conscientious discharge of duty, in a case where much is left to the feeling

feeling and to the discretion of the Judge; but he has pointed out *certain* and *particular* statutes which he affirms to have been violated, and therefore, in case of conviction, the Court has no option.

Now the conviction or acquittal of Mr. Frend depends entirely on the solution of two questions. 1st. Is Mr. Frend the Author and Publisher of the Pamphlet, entitled Peace and Union? On this head we have not the slightest embarrassment. We think that Dr. Kipling has produced a great deal of superfluous evidence. The 2d Question is, Does the Pamphlet contain matter by which the 45th Statute is violated? We are all satisfied that it does, nor has the eloquence of Mr. Frend convinced us that the most offensive passages in the Pamphlet do not apply, and were not intended to apply, to the Church of England, as well as to the Church of Rome. Then, I say, the Court has no option.

Yet I am willing to *pause* for a moment, and to consider what *might* be the consequences of a *supposed* discretionary power in this Court.

Enumerate then the circumstances which should induce the Vice-Chancellor and his Assessors to mitigate the penalties of this Statute. Did the Pamphlet make its appearance at a time when every well-wisher for his country entertained the most serious apprehensions for its safety and tranquility? Does the oldest of us ever remember so general, and I had almost said universal, a concurrence and union of sentiment in the best characters of all parties uniting to oppose the influence of seditious meetings and seditious publications? At such a critical time as this, Did the Author of this Pamphlet inculcate the necessity of Peace and good Order? Or did he exhort the lower ranks of people to be patient and submissive in bearing the additional burthens which might be necessary to repel by force, the unjust attacks of an outrageous and insolent enemy? Or, again, when the National Convention of France had filled up the measure of their crimes, by murdering their King and destroying all lawful Government, when their deliberations breathed nothing but Atheism and Anarchy, and when they were threatening every country in Europe with the introduction of similar principles, did the Author of this Pamphlet sincerely inculcate a respect for the *King and Parliament of this country, and for the reformed Religion and the functions of the Clergy as established by Law?*

I ask not whether he entered into any nice disquisitions concerning improvements, or reformation in smaller matters;

ters; but I ask, in one word, whether the plain object of the Author, at least in *some* parts of the Pamphlet, was not to teach the degraded Laity, as he calls them, that "*Like brute beasts they were sitting tamely under an usurped authority?*"

Is there any satisfactory answer to be given to these questions? In the title page, it is true, there stands in great letters **PEACE AND UNION.**

Is it satisfactory to be told, that all the offensive passages apply to the members of the Church of Rome, and not to the Church of England? I answer as I have often heard my Lord Mansfield instruct a Jury—"Take the writing and read it as any plain man would do, and tell us the obvious meaning of the passages." Upon this principle, I firmly believe, my Assessors, the Heads of Colleges, who have unanimously concurred with me in opinion, have most conscientiously acted.

But perhaps the Author is sorry for his offence. This would plead strongly in mitigation of censure, and I wish I could have perceived, in the whole conduct of this business, the slightest vestige of contrition.

Mr. Frend had certainly an undoubted right to use his own judgment in conducting his defence, yet still I cannot but think he has mistaken the proper mode, in several ways.

1st. He has not treated the cause with a sufficient degree of seriousness.

Did he expect to make an impression on the minds of the Judge and his Assessors by legal quibbles, by strokes of wit, by allusions to novels, or by endeavours to excite smiles in the galleries?

2dly. He might have avowed the Authorship, and if conscious of having gone too far in the propagation of principles, he might ingeniously have said, *this* I maintain to be true, *that* may possibly be defended, but *here* I wish I had stopped.

3dly. If not conscious of having gone too far, he might have boldly confessed and defended his principles, and in a manly way, have submitted to the infliction of penalties, which, according to his judgment, were arbitrary and unreasonable.

Whichsoever of these modes of defence he had chosen to pursue, *I do not perceive that he would have endangered his reputation as a man of honour and veracity.*

It was certainly laudable in Mr. Frend to use every fair and honest exertion of his talents to exculpate himself from the



the charges. But the Court has been at a loss to comprehend in what way the continued application of satirical remark and virulent invective on the character of Dr. Kipling, and on the rest of the Gentlemen who disapproved of this publication, could be considered as useful to this purpose? Can he now say as the great Roman did of old, "*Si nullâ aliâ in re, modestiâ certè et temperando linguâ, adolescens senem vicerò.*"

Such satire and invective might indeed have a tendency to *debauch* the sentiments of the galleries, but could not will be supposed to make any impression upon the minds of the Vice-Chancellor or his Assessors, or of any gentleman who had carefully read and considered the pamphlet.

In the course of this defence it was *more than insinuated*, that the Promoter of this cause could neither write nor speak a sentence of pure latin. Suppose, for a moment, that the Bishop of Landaff, whose authority was so confidently appealed to on Friday last, could permit the most important Professorship in this University to be so scandalously degraded and neglected, as this imputation on Dr. Kipling implies—How would all this exculpate Mr. Frend from the charges that have been brought against him? Again, suppose for a moment, that calumny could, by possibility, fix itself on the respectable characters of Dr. Glynn and Professor Mainwaring, of twelve Tutors and Lecturers of this University, of thirty-four Members of the Senate, who all applied to the Vice-Chancellor to take cognizance of this offence; I still ask, how would all this exculpate Mr. Frend from the charges that have been brought against him?

But Mr. Frend has not contented himself with applying the most disrespectful appellations to this considerable body of Academical Gentlemen. He has in effect maintained, that their evidence on oath ought to be rejected in this cause.

To this part of his argument, I confess, I listened with the utmost astonishment.

Let us try the truth of this assertion by a very possible supposition.—Suppose an offence to have been of so gross a nature, that not only 34 but twice that number—Suppose even the particular friends and intimates of the offender himself should have joined *the Cabal*, as it has been termed—Suppose the whole University, in a body, or by Delegates, had applied to the Vice-Chancellor, "Sir, you *must* take cognizance of this offence: Our character and credit in the world demand it;" will any man say that the evidence

of

of all these Gentlemen, speaking on oath, not to the intrinsic merits of the pamphlet, but to a plain fact, as the buying of a book or the hand-writing of a person, is to be rejected in such a cause? This would indeed be an alarming proposition, and enough to startle any considerate person. It amounts to no less an absurdity than this, that the very greatness of a crime might properly become its shelter and defence.

Before I put an end to this unpleasant business, by finally dissolving the Court, I feel myself called upon, by the extraordinary circumstances of this cause, to say a few words to the Junior part of this University.

You have shown yourselves to be much interested in the investigation, and in the event of this Trial, and now that it is brought to a conclusion, I wish to engage your most serious attention for a few moments, while I propose the following advice to your serious consideration:

I have no intention to animadvert upon the noisy and tumultuous irregularities of conduct by which our proceedings, on some of the former Court-Days, have been interrupted. Let these be consigned to oblivion; but let the principles from which these irregularities arose, be well considered, and let me seriously exhort you to be upon your guard in future against the consequences of their dangerous and delusive operation. I cannot suppose that you have even *heard* distinctly, much less that you can have *digested* every thing that has been advanced in the course of this trial.

Your passions and affections therefore, in this case, are not founded on a knowledge and understanding of the subject. Examine yourselves, you will perceive that they are founded upon certain vague ideas, that the accused person has been persecuted.

Such an unreasonable persuasion, if not effectually opposed by sober argument and reflection, will soon produce the most destructive consequences on your practice. And I think it the more necessary at this time to advertise you of your danger, when this country has just escaped and survived a most alarming crisis, and when several turbulent and democratic spirits still endeavour to persuade the public, that every attempt to punish libellous attacks upon the Constitution and Government of the kingdom, by enforcing wholesome and established laws, is a species of persecution, and contrary to the *imprescriptible Rights of Man*.

Now I affirm, that in this country, wherever there is *fair ground* for an accusation, and where the accused per-

son has had a *fair* hearing, there can be no such thing as persecution. On these two essential points I rest the merits of the question. When, therefore, I look on the Junior part of this University, and foresee in them the future supports and ornaments both of the Civil and Ecclesiastical Establishment of England; and when I consider that they have been entrusted to our care and nurture by relations and connexions who venerate these establishments, I feel myself authorised to *interrogate* you closely, and to demand, whether being educated from earliest infancy, in the practice of frequenting the Church, and reverencing her institutions, you are now prepared to say, on reading this pamphlet, that the accusation of having impugned the established Church was either frivolous or oppressive?

I know very well how you must answer this question, and am persuaded that the ingenuous dispositions of youth only needed this matter to be clearly stated to them.

In regard to the second question, whether the accused person has had a *fair* hearing, I have no anxiety. Whatever notions you may have inconsiderately entertained *before* the Trial, I have no doubt but that now, *after* the Trial, you will tell your Fathers, your Guardians and your Friends, that you never heard or read of a Trial where the accused person had a more full, deliberate, and impartial hearing.

You will tell them also, that the *only doubt* you could entertain of the propriety of the proceedings might be, whether the Judge of this Court, through an extreme unwillingness to interrupt the accused person in his defence, did not carry his patience and forbearance to an almost unwarrantable length, while he permitted the Defendant to proceed in an unbounded strain of virulent and irrelevant invective. *Then* you will add, and I trust, with some effect, that the University of Cambridge will not suffer the sacred and venerable institutions of the established Church to be derided and insulted; and that at a time when a profane and licentious spirit of infidelity and irreligion makes rapid advances and threatens the destruction of our ecclesiastical fabric, there were to be found in these seminaries, *respectable characters* who could accuse with *liberality and decorum*, and Judges who could condemn with *firmness and moderation*.

The remaining part of my advice to you will not fatigue your memories. It is brief; but it is important; but it is well worth your most serious consideration. *Beware of entering*



entering into religious controversies at this period of your lives. Whatever may be the profession you are intended for, improve your understandings by the diligent pursuit of Academical studies: obey your Tutors: frequent the service of God according to the established forms, both in your private colleges, and in the University Church. At present, *take it for granted*, that our forefathers had some good reason for steadily adhering to, and supporting these venerable institutions. I repeat it, at present take it for granted, and those whom I perceive to be objecting to these words, will themselves tell you, that it has not been my way to take things for granted. All I contend for is, that *this* is not your time for becoming parties in controversial matters of Religion. It is your business to cultivate your understandings, and to be careful, that the good seed sown in these retirements may take root downwards, and bear fruit upwards; and increase to a mighty harvest in your lives and practice.

Against those who would openly attack the religious principles in which you have been educated, it is easy to guard. I have more apprehensions from those who are perpetually talking of candour, of liberality, of thinking for themselves, of examining things to the bottom, of the newly discovered modes of interpreting Scripture, and of the opinions of fallible men. These, and such like topics are excessively captivating to the unsuspecting minds of Youth. Impressions of the most durable nature, are made in a few conversations, and, in this way, I have more than once seen the finest talents and most amiable dispositions soon perverted or rendered useless, which, doubtless, in happier circumstances and with a better cultivation, might have been eminently serviceable to their country, either in Church or State.

*Remember* then the earnest zealous advice of a person, who thus addresses you from the purest motives of good-will, and the warmest wishes for your best interests; of a person whose imagination and temper have never been heated with religious dispute, whose pride and ambition have ever been to obtain, in the various branches of useful science, solid information for himself, and to communicate it to others, and whose health has been almost exhausted with Academical labours.—Remember then, I say, the advice of a person who at this moment addresses you, not with the authority of a Vice-Chancellor, but with the friendship and affection of an experienced Academic, of a person who has never been suspected of being fond of possessing

possessing offices or dignities, who has lamented bitterly that the necessity of this enquiry should have taken place in the present year; but who, when the enquiry was once instituted, thought it his duty to go through it with all the energy he was capable of, and who found it impossible to acquit Mr. Friend of having offended against the Statute, without sacrificing every principle of Truth, of Justice, and of Honour.

The Vice-Chancellor, with the assent of the Major part of the Heads of Colleges, then decreed Sentence of **BANISHMENT** against Mr. Friend in the following Form:

"I ISAAC MILNER, D.D. and Vice-Chancellor of the University of Cambridge, do Decree, Declare, and Pronounce that W.M. FRIEND, M. A. and Fellow of Jesus College, having offended against the Statute, "*De concionibus*," by writing a PAMPHLET, entitled "*PEACE and UNION recommended to the Associated Bodies of Republicans and Anti-Republicans*," and by publishing the same within the University of Cambridge, and having refused to retract his Error and Temerity in the manner prescribed to him by me, the Vice-Chancellor, with the assent of the Major Part of the Heads of Colleges, has incurred the Penalty of the Statute, and that he is therefore **BANISHED** from this University.

Signed,

I. MILNER, Vice-Chancellor.

J. SMITH,

R. FARMER,

W. COLMAN,

L. YATES,

J. BARKER,

J. TURNER,

FRA. BARNES,

W. CRAVEN,

T. POSTLETHWAITE.

The Court was then Dissolved.

## A P P E N D I X.

**M**R. BEVERLEY inserts the following Papers, at the request of Mr. Kilvington; and he considers them as no unsuitable addition to his account of Mr. Frend's Trial.

(COPY)

CAMBRIDGE, *June 1st, 1793.*

WE, the underwritten, express our Detestation of the scandalous and unfounded Imputations, which were attempted to be thrown upon the characters of Mr. Lloyd, and Mr. Kilvington, at the late Trial of Mr. Frend.

T. Kipling	R. Boon
J. Jowett	J. Dudley
R. Glynn C.	W. Pugh
W. L. Manfel	C. Simeon
J. Mainwaring	Antho. Mainwaring
R. T. Belward	Edw. Wigley
Geo. Whitmore	W. Millers
W. Walford	Jos. Watson
J. Oldershaw	Tho. Castley
W. Wade	John King
W. Mathew	Philip Douglas
J. Smith	E. Edwards
J. Wood	J. Bradshaw
W. Wilfon	W. Walker
H. Greene	J. Fawcett
R. Ramsden	R. Tillard
A. Frampton	W. Easton
E. Outram	Henry Jowett

(COPY)

THE Testimony given by Mr. Kilvington, during the Trial of Mr. Frend, having been openly contradicted by the latter, and an Idea having prevailed that certain Letters written by Mr. Kilvington to Mr. Frend, contained a Proof that the Testimony was untrue; I think myself called upon to declare publickly, in Vindication of Mr. Kilvington's Character, that since the Trial in the Vice-Chancellor's Court, Mr. Frend, on application made to him by Mr. Kilvington's Desire, shewed me those Letters, and that there was nothing in them which appeared to me in the smallest degree to invalidate that Testimony. The substance



stance of the Letters was an Application for College Testimonials, and they contained general Expressions of Gratitude to Mr. Frend for favours received, which, according to Mr. Frend's Explanation, consisted in attentions shewn to Mr. Kilvington, when at Jesus College, and the supplying him occasionally with Books from the Library.

W. F. A. R. I. S. H,  
Senior Proctor of the University

Magd. Coll. July 1, 1793.

## ADVERTISEMENT.

The PROCEEDINGS in the COURT of DELEGATES, on Mr. FRENCH's APPEAL, are preparing for the Press, and will shortly be Published.

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THE  
PROCEEDINGS  
IN THE  
COURT of DELEGATES

ON THE  
APPEAL OF WM. FREND, M. A.

AND FELLOW OF JESUS COLLEGE, *K*

FROM THE  
SENTENCE OF THE VICE-CHANCELLOR'S COURT.

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By JOHN BEVERLEY, M. A.  
PROCTOR OF THE VICE-CHANCELLOR'S COURT.

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CAMBRIDGE:

PRINTED BY F. HODSON, FOR THE PUBLISHER, AND SOLD

BY J. DEIGHTON, 325, HOLBORN, LONDON; AND

THE BOOKSELLERS IN CAMBRIDGE.

THE

PROCEEDINGS

COURT OF COMMONS

IN THE

ALFRED OF WILFREED, M.A.

OF THE COURT OF COMMONS

IN THE

ALFRED OF THE COURT OF COMMONS

BY JOHN BEVERLEY, M.A.

PROCTOR OF THE COURT OF COMMONS

CHAMBERLAIN

PRINTED BY HODGSON, FOR THE WINDMILL AND ROSE

BY J. DUNSTON, WINDMILL, LONDON, AND

THE WINDMILL PRESS IN LONDON



PROCEEDINGS  
IN THE  
COURT of DELEGATES  
ON

MR. FREND'S APPEAL.

QUEEN'S COLLEGE, June 1, 1793

Business of Appeal	}	Before the Right Worshipful Isaac Milner, D. D. Vice-Chan- cellor of the University of Cam- bridge.
between		
William Frend, M.A.		
and Thos. Kipling, D. D.		

On which day, at the hour of eleven in the forenoon, the said William Frend appeared, and having in the afternoon of yesterday declared to the Vice-Chancellor his intention of appealing from a certain definitive sentence pronounced upon him by the said Isaac Milner, on the 30th of May last, did then and there take the oaths *De Gravamine* and *De non Solicitando Delegatos*.

At the same place, day, and hour, George Hunter, M.A. Junior Proctor of the University, appeared, and inhibited Isaac Milner, D. D. Vice-Chancellor of the University, during the Appeal between William Frend, Party Appellant, and Thomas Kipling, Party Appellate, in the following words: "Ego Georgius Hunter, Procurator alter, "nomine Academiæ Te Isaacum Milner, Procancellarium, "Judicem a quo, inhibeo, ne quid, pendente Appellatione "inter Gulielmum Frend, et Thomam Kipling attentare "vel innovare præsumas."

Me present.

GEO. BORLASE,

Not. Publ. and Registr.

N

Business

Business of Appeal	}	Before the Right Worshipful
between		Isaac Milner, D. D. Vice-Chancellor of the University of Cambridge.
William Frend, M.A.		
and		
Thos. Kipling, D.D.		

On which day, at the hour of twelve, Thomas Kipling, D. D. and John Beverley, M. A. his Proctor, did appear, and did then and there respectively take the oath "*De non Solicitando Delegatos*," in a certain cause of Appeal between Wm. Frend, Party Appellant, and him the said Thomas Kipling, Party Appellate.

In the presence of me,

GEO. BORLASE,

Not. Publ. and Registr.

At a Congregation on the 11th of June, Notice was given, that the Nomination and Election of Delegates would be on the 14th inst. on which day, at the first Congregation in the morning, the Vice-Chancellor informed the Regents and Non-Regents, that at the time when this Appeal was made, he had expressed doubts concerning the Right of Appeal in such a Cause: but that as the Forty-eighth Statute "*De Causis Forensibus*," requires the Appeal to be signified to the University *infra biduum*, and to the Proctor *infra triduum latae sententiae*, and as he could not undertake to say, that an appeal did not lie in the present instance, he had judged it improper either to evade the Inhibition of the Proctor, or not to permit the usual oaths to be taken, and the appeal to be registered. He said, that though during the last fortnight, he had spared no pains to acquire information concerning the Question of Law, whether an appeal does or does not lie in this Cause, he was not at present able to say, that his doubts were lessened, but that if proper time had been allowed for investigation, he would have endeavoured to lay before the University, something decisive and satisfactory. He further said, that as the Grace of 1593, directs that the Judges Delegates do terminate the Appeal within forty days from the inhibition, he felt himself justified in permitting the Appeal to proceed, at the same time that he thought it his duty to direct the Registry to record his present Declaration, viz. That by permitting the appeal to go on, he by no means undertook to decide the Question of Right to an Appeal in a criminal cause of this nature, but desired it to be understood, that he left that

that question precisely where he found it. The Vice-Chancellor added, that he knew Dr. Plumtre had entertained similar doubts in the Case of the Appeal of Dr. Ewin, though he had omitted to record them: and he concluded with recommending it to the University to adopt some proper mode of finally settling this long debated Question, if possible, at a time when no Cause was pending, and when the minds of men were less liable to be heated by party zeal and prejudice.

The Five remaining Members of the Caput, together with the Two Proctors, then proceeded to nominate the Delegates, and delivered to the officiating Bedel the following form, and directed him to publish it to the whole Congregation. After which it was read in both Houses, and the Vice-Chancellor continued the Congregation to four o'clock in the afternoon.

Judices delegati in Causâ Appellationis inter Gulielmum Frend, A. M. et Thomam Kipling, S. T. P. electi & dati sunt.

GULIELMUS WYNNE, EQUES.

DR. J. HEY, Sidn. Coll.

DR. SEALE, Xti.

MR. E. CHRISTIAN, Div. Johannis.

MR. LANE, Coll. Regin.

Placeat Vobis ut prædicti Viri sint Judices Delegati in prædictâ Appellationis Causâ.

In the afternoon of the same day, in full Congregation, the above Grace was read in the Non-Regent-House, by the Deputy Senior Scrutator, in the usual manner, and passed unanimously. It was then read in the Regent-House by the Senior Proctor in the usual manner, and a non placet being given by one of the Regents, it was voted in that house, and carried by a majority of *forty-two* placets, against *two* non-placets.

On the 24th of June, the following Citation was served on Mr. Frend, at his Chambers in Jesus College.

#### C I T A T I O N.

William Wynne, Knight, Doctor of Laws, John Hey, Doctor in Divinity, John Barlow Seale, Doctor in Divinity, Edward Christian, Master of Arts, and John Lane, Master of Arts, Judges Delegates, rightly and lawfully appointed and chosen in the under-written Cause, and between the Parties under-mentioned. To our beloved in



Christ, John Beverley, William Mathew, and Henry Gunning, Esquire Bedels of the University of Cambridge,

GREETING.

WHEREAS in a certain Cause of Appeal and Complaint which before us in Judgement is now moved and depending between William Frend, M. A. the Party appealing and complaining on the one Part, and Thomas Kipling, D. D. the Party appellate and complained of on the other Part, rightly and lawfully proceeding therein: WE have decreed the aforesaid William Frend, the Party appealing and complaining, to be cited and admonished on the Day, Time, and at the Place, and to the effect and purpose underwritten,

(Justice so requiring)

" WE do therefore strictly enjoin and command you jointly and severally, that one of you, Esquire Bedels of the said University, do peremptorily cite, or cause to be cited, the aforesaid William Frend, the Party appellant and complaining in the said cause, to appear before us in the Law-Schools of the said University, on Friday the 28th day of this instant June, between the hours of nine and twelve in the forenoon, then and there to prosecute his said appeal and to abide in judgement until the final determination thereof, and further to do and receive as unto Law and Justice shall appertain, under Pain of the Law and Contempt thereof. And ye shall moreover intimate or cause it to be intimated to the said William Frend (to whom also we do so intimate by these presents) THAT we do intend to proceed and will then and there proceed to hear and finally determine the said cause of appeal according to Law. And that you or either of you shall duly certify to us what you shall do in the premises, together with these presents. Given under our hands and seals, this 21st day of June, in the year of our Lord 1793.

WM. WYNNE, (L. S.)

J. B. SEALE, (L. S.)

JOHN LANE, (L. S.)

ED. CHRISTIAN, (L. S.)

I certify that the above Citation was personally served on the above-named Wm. Frend (by copy) on June 24, 1793,

By me,

JOHN BEVERLEY.

CITATION

## CITATION OF DR. KIPLING.

Wm. Wynne, Knight, Doctor of Laws, John Hey, Doctor in Divinity, John Barlow Seale, Doctor in Divinity, Edward Christian, M. A. and John Lane, M. A. Judges Delegates, rightly and lawfully appointed and chosen in the under-written Cause, and between the Parties under-mentioned. To our beloved in Christ, John Beverley, William Mathew, and Henry Gunning, Esquire Bedels of the Univerfity of Cambridge,

## G R E E T I N G.

WHEREAS in a certain Cause of Appeal and Complaint which before us in Judgement is now moved and depending between Wm. Frend, M. A. the Party appealing and complaining on the one Part, and Thomas Kipling, D. D. the Party appellate and complained of on the other Part, rightly and lawfully proceeding therein : WE have decreed the aforesaid Thomas Kipling, the Party appellate and complained of in the said cause, to be cited to appear before us, on the Day, Time, and at the Place, and to the Effect and Purpose under-written,

(Justice fo requiring)

WE do therefore strictly enjoin and command you jointly and severally, that one of you, Esquire Bedels of the said Univerfity, do peremptorily cite or cause to be cited the aforesaid Thomas Kipling, the Party appellate and complained of, to appear before us in the Law-Schools of the said Univerfity, on Friday the 28th day of this instant June, between the hours of nine and twelve in the forenoon, then and there in Justice to answer to the said Wm. Frend, in the said Cause of Appeal and Complaint, under Pain of the Law and Contempt thereof; and further to do and receive as unto Law and Justice shall appertain.

And that you or either of you shall duly certify to us what you shall do in the premisses, together with these presents. Given under our Hands and Seals, this 21st day of June, in the year of our Lord 1793.

WM. WYNNE, (L. S.)  
J. B. SEALE, (L. S.)  
JOHN LANE, (L. S.)  
ED. CHRISTIAN, (L. S.)

I do certify, that the above Citation was personally served on the above-named Thomas Kipling, D. D. (by copy) on the 24th of June, 1793,

By me,

JOHN BEVERLEY.

CAMBRIDGE,

CAMBRIDGE, 27th June, 1793.  
 Before the Right Honourable and Right Worshipful  
 Wm. Wynne, Knight, L.L. D. the Worshipful John Hey,  
 and John Barlow Seale, respectively Doctors in Divinity,  
 Judges Delegates, constituted (together with John Lane,  
 and Edward Christian, respectively Masters of Arts) in a  
 certain cause of Appeal between William Frend, M. A.  
 and Thomas Kipling, D. D.

Me present.

GEO. BORLASE,  
 Not. Pub. and Registr.

Business of Appeal } On which day appeared in the  
 between } Public Library, in and belonging  
 William Frend, M. A. } to the University of Cambridge,  
 and } John Beverley, Esquire Bedel of  
 Thos. Kipling, D.D. } the said University, and returned  
 a Monition heretofore issued under  
 the hands and seals of Wm. Wynne, John Barlow Seale,  
 John Lane, and Edward Christian afore said, Delegates, to  
 Isaac Milner, D. D. or George Borlase, B. D. Registrary,  
 to transmit to them, the said Delegates, all and singular  
 the proceedings in a certain cause of Office, promoted  
 before the said Isaac Milner, Vice-Chancellor of the said  
 University, by Thomas Kipling, D. D. against William  
 Frend, M. A.

And the said John Beverley alledged and certified that  
 the same had been duly served.

And the Proceedings were then and there transmitted  
 and delivered to the said Delegates, according to the tenor  
 of the said Monition.

### FIRST COURT.

UNIVERSITY } Before the Right Honourable and Right  
 OF } Worshipful William Wynne, Knight,  
 CAMBRIDGE } L.L. D. the Worshipful John Hey and  
 To Wit. } John Barlow Seale, respectively Doctors  
 in Divinity, and the Worshipful John  
 Lane and Edward Christian, respectively Masters of Arts,  
 Judges Delegates, lawfully constituted, in a certain Cause  
 of Appeal or Complaint between William Frend, M. A.  
 and Fellow of Jesus College, Party Appellant, and Thos.  
 Kipling, D. D. Party Appellate, in the Law Schools of the  
 said



said University, on Friday the 28th day of June, 1793, at nine o'clock in the morning.

Me present.

GEO. BORLASE,

Not. Pub. and Registr.

Business of Appeal } The Grace of the Senate, 14th  
between } June, 1793, appointing Delegates  
William Frend, M. A. } in the Cause, was read.—Also  
and } a Citation of Wm. Frend, Party  
Thos. Kipling, D. D. } Appellant, and a Citation of  
Thomas Kipling, Party Appel-  
late: and John Beverley, Esquire Bedel, was sworn, who  
deposed, that he had respectively served the said Citations  
on Mr. Frend and Dr. Kipling, who both appeared.

The following Protest signed by Robert Tyrwhitt was also read.

JESUS COLLEGE, 20th June, 1793.

WHEREAS a Grace proposing Five Delegates, was read a second time in the Non-Regent House, on Friday last, and was then suffered to be taken away by the officiating Bedel without a Scrutiny; which Grace was afterwards approved by a Majority of Votes in the other House:

I ROBERT TYRWHITT, a Non-Regent Master of Arts, do within ten days make this open and legal Protestation against the said Grace.

1. "In the first place, because I had not a statutable opportunity of expressing my disapprobation of it, either in whole or in part, although I was present in the House at the time it was read."

2. "In the second place, because both the persons who acted as Scrutators, were Deputies, and neither of them sworn agreeably to the Law of the University."

ROBERT TYRWHITT."

1. Stat. Vet. 80. Quomodo Scrutatores tenentur petere Gratias.

Stat. Vet. 161. De modo & formâ petendi Gratias.

2. Stat. five Gratia, De Procuratoribus & Scrutatoribus deputatis.

This Writing I received of Mr. Robert Tyrwhitt, on the 20th day of June, 1793.—Mr. Tyrwhitt at the same time expressed a desire, that the same might be recorded.

GEORGE BORLASE, Regist.

The

The following are the Statutes and the Grace referred to.

## STATUTA ANTIQUA.

### 63. *De Gratiis petendis.*

Statuimus et ordinamus, quod de cætero, nulla Gratia tempus aut formam concernens, petatur, nisi in Præsentia Cancellarii vel Præsidentis, et hoc in novâ Capellâ, et non alibi concedatur; exclusâ parvâ Capellâ eidem annexâ, salvis tamen Gratiis quæ in Antiquis Statutis solum Regentibus reservantur concedendis. Et si aliqua Gratia vel Gratiæ concedantur, quod alter Procuratorum, vel alterius eorum Vices occupans, altâ Voce dicat in medio Capellæ, ista Gratia vel istæ Gratiæ habentur in istâ Congregatione. Et si aliqua Gratia contra prædictam Formam concedatur, impetrans, Officio suo sit ipso Facto privatus, et utens scienter eâdem Gratiâ, Excommunicationis sententiæ sit ipso Facto subjectus, a quâ, nisi in plenâ Congregatione, per Cancellarium vel ejus locum-tenentem, non valeat absolvi. Et ad hujus Statuti continuam Observantiam, volumus, singulos Procuratores ac Scrutatores futuros, antequam admittantur ad eorum Officia, esse personaliter juratos.

### 80. *Quomodo Scrutatores tenentur petere Grantias.*

Item, duodecimo Die Mensis Octobris, Anno 1467, in plenâ Congregatione Regentium et non-Regentium, statutum est et ordinatum, quod Scrutatores electi arctentur ad petendum Grantias & alia Negotia Universitatis exequenda, secundum Formam Statuti, quo arctantur Procuratores eâdemque Pœnâ puniendi sunt, si secundum Formam prædicti Statuti requisiti, id facere recusent.

### 161. *De modo et formâ petendi Grantias.*

Item, statuimus, quod Procuratores, vel eorum alter cum occupante Vices alterius, seu Procuratorum Vices occupantes, quamlibet Gratiam petendam privatim scrutari teneantur, et quilibet Regens, alteri eorum Votum exprimens, secretè respondere teneatur, et pro secreto habere teneantur, tam Scrutator quam Scrutatus: et qui contra hoc statutum venerit, Pœnam de Secreta revelantibus incurrat. Nulla etiam Gratia conditionetur, sed purè concedatur vel negetur, nec aliqua Gratia cum aliâ concurrat.

*Gratia concessa 6to. Maii 1575.*

Conceditur 6to. Maii, cum Procuratores et Scrutatores sæpè propter Negotia sua privata abesse cogantur à Congregationibus et aliis publicis muniis Academiæ, ut eorum Substituti et Vicarii, jurejurando astringantur ad benè & fideliter peragendum eorum Officium, antequam aliquid in Præmissis pertractent.

The foregoing Statutes having been read, Mr. Tyrwhitt was heard in support of the Protest.

Mr. Tyrwhitt observed, that the Scrutiny in both Houses ought to be private, as may be infered from Stat. Ant. 167.\* that putting in a non placet, exposes the person to a punishment—Stat. Ant. 63.\* He refered to the project published by the late Mr. Lort, and to all written and printed authorities.

From Stat. Ant. 80.\* The Scrutators and Proctors are bound by the same Rules, and are subject to the same punishment.

The History of the University proves, that it is the duty of Scrutators to go round, and to ask every individual his opinion. When in the Office of Scrutator I did so, although a non placet was not given—in the Case of a Grace, which I should have opposed as a private Member of the University. In the present instance, when twenty men came in to vote, opposition was to be expected.

Dr. Hey. Did you observe this mode in all Cases?

Mr. Tyrwhitt. The Case I allude to, was that of a Mandate for the late Master of St. John's.

In another instance, in which the placet had been pronounced; when the present Vice-Chancellor and the Bishop of Lincoln were Regents, they came with great Impetuosity into the non-Regent House, where I was present, and insisted that the Grace should be voted, because many persons wished to give non-placets. I then mentioned to the non-Regent House, that it was their wish, and the Votes were taken.

The Court then retired to consult; after which Sir Wm. Wynne said, Mr. Tyrwhitt, the Delegates have deliberated on this matter, and they are unanimously of opinion, that nothing contained in the Protest, or urged in support of it, ought to prevent their proceeding to hear the Appeal, and they are ready so to do.

\* See the preceding page.



Mr. Frend then said, that although he could not allow himself to consider the Delegates as fairly nominated and elected, their appointment being by principals in the Cause, he nevertheless submitted, from the respect he bore to the persons appointed—That he desired to know how he was to proceed—that he had received the Citation, which was an unusual Process, in an Appeal.

He then read some account of the common forms of proceeding, in which it is set forth, that the usual mode of the Delegates meeting is, that the party appellant should go to the Judges, and if they accepted the office, that a day is to be appointed for supporting the Appeal.

Sir Wm. Wynne said, that the opinion of the Court was, that the whole of the Proceedings in the Court below, should be read by the Registry.

Mr. Frend asked, Do you mean that I should make my objections as you go on?—It might save the Court much trouble, if they would consider, that the Minutes of the Depositions having been in the hands of Dr. Kipling, and subject to his mutilations and corruptions, had thereby lost all their authenticity.

Sir W. Wynne. We must know from the Registry whether the papers are exactly as he wrote them; they are in his hand-writing; the Registry will be sworn to the authenticity of them.

Mr. Frend. I hope an oath will not be imposed in so uncertain a matter—it is impossible to say, that the papers have not been altered. A negative proposition cannot be proved, except in the Divinity-Schools.

Sir W. Wynne. The Registry has taken the Minutes. Will he swear that they are now exactly as he took them? He must be sworn to the truth of this.

Mr. Frend. I object to it.—Were a Man to swear till he is black in the face, he cannot prove a negative proposition—if I have learned any thing of logic.

He then quoted the case of Metcalfe and Dean, where the Jury, after going out of Court, re-examined a Witness privately, and their verdict was declared by the Judge to be invalid, altho' the Evidence given in Court was in all respects the same.

Sir W. W. The Case does not apply. There was an Examination *out of Court*.

Mr. F. The Evidence in my Case, was *given out of the Court* to the Promoter, and therefore subject to his mutilations.

The Registry was sworn:—Being first interrupted by Mr. Frend, who exclaimed—*No alteration—No addition—No Obliteration whatever.*

Registry. I shall swear according to my former declaration before the Vice-Chancellor.

Sir W. Wynne. Are the Minutes of the Court below, the same in all respects, as when you delivered them to the Promoter?

Registry. I declare upon my oath, that I did look over the Minutes, after they were returned to me from Dr. Kipling, and found they had undergone no alteration whilst in his hands.

Here Mr. Frend said, that he had not with him, the Copies of the Evidence given to him by the Registry, and desired that he might be allowed to go home for them, which was granted.

The Registry proceeded to read Harvey Alger's Evidence.

Whilst this Evidence was reading, Mr. Frend said, that it varied from the Copy delivered to him by the Registry. The Registry had read "*whether Witness,*"—in his Copy it stood "*whether the Witness.*"—I observe this, said Mr. Frend, to shew, what credit is to be given to *attested* copies.

Registry. It is not an attested copy.

Mr. Frend. Then my papers are of no use; yet they are on stamps.—As the Registry proceeded, Mr. Frend continued to object to several passages.

In the Registry's copy it stood "*desired the Witness,*" in his own, "*desired him*"—for Witness, "*the Witness*"—"for could not *have been*"—"could not *be*"—"for Mr. Lunn's Foreman,"—"Mr. Lunn's Journeyman."

He also objected to the order in which the Registry read the Evidence—The Copy delivered to him by the Registry was not in the same order. When, therefore, the Registry had not attended to the same order in different copies, and could not authenticate his own papers, how could he authenticate the papers sent back to him by the Promoter, whose interest it was in so strong a manner to corrupt and mutilate them?

Mr. Frend desired to know whether the paper the Registry was now reading, was put into the hands of the Promoter, and of the Vice-Chancellor;—If it was, could the Registry say, that the same was returned unaltered?

The Registry said, he did not stand there to be examined by Mr. Frend, but he believed the paper had been in the hands of Dr. Kipling, and of the Vice-Chancellor, and was one of those, which he swore to have been returned to him unaltered.

In the course of the Registry's reading the minutes, Mr. Frend continued to object to several variations between the original minutes and his own.

In Mr. Lloyd's Evidence, the Registry read, "cross-examined *Mr. Lloyd*,"—his own copy had, "cross-examined *the Witnesses*." The Registry read, "purchasing, keeping, and exhibiting,"—his own copy, "purchasing."

The Registry read, "thinks *that it was*,"—his own, "thinks *it was*."

Mr. Lane rose and said, it is unnecessary to make these trifling verbal distinctions; if there are any material differences in your copy, point them out, and the Court will notice them. Evidence is often taken in short hand, and although there may be some difference in trifling instances, between the copy and the original, yet still the evidence remains good, if the meaning is the same.

Mr. Frend said, that he made the observations, on account of the copy now reading having been in the Promoter's hands.

The proceedings of the Third Court-Day stated, that Resolutions were read, by which five persons were appointed Managers, to carry on in their names this prosecution. "In his copy," he had omitted, *in their names*, a material omission.

Mr. Watson deposes, that he had received Notes or Letters—The words, "*Notes or*," are omitted—Were the words, *Notes or*, struck out by Dr. Kipling?

He then took notice of the irregularity of the proceedings in the Vice-Chancellor's Court.

In the Evidence of Bowtell sen. Mr. Frend submitted to the Court, whether the question (you told the Court yesterday, that you saw Mr. Frend, &c. Pag. 27.) was not a leading question.—The Court said it was not.—Mr. Frend said, that this was the only time he could make any remarks on the irregularity of the proceedings in the Senate-House, as he should take no notice of them when he came to his Gravamina.

On Lunn's Evidence he observed, that the first question he was asked was irregular (your foreman has told the Court, &c. see pag. 27.) I only observe it was an irregular question—All the proceedings were contrary to law.

Sir



Sir W. Wynne. Was the question objected to?

Mr. Friend. I will not answer whether it was, because the papers have been in Dr. Kipling's hands.—I made frequent objections when leading questions were put.

Sir W. Wynne. What answers did you receive?

Mr. Friend. My objections were over-ruled.—A Friend who made a minute at the time, has just now hinted to me, that I put the following question to the Court—I desire to know whether such prolegomena can be allowed?

On the termination of Bowtell's evidence, Mr. Friend observed, that there was an omission which was very objectionable, but that he did not think it a sufficient objection to trouble the Court with. He also said, that he had made an objection in the Court (at the time the Witnesses were there together) that it was not allowable in any Court, that the Witnesses should be present during each other's examinations.

He was asked by Sir W. Wynne, whether he or any other person made any *real* objection at the time?

He answered No.

In Merrill's Evidence he had objected to the question;—

“On whose authority was the Appendix cancelled?” (pag. 30.) as having no relation to the Cause.—He also objected to the question, “To whom have you given credit, &c.” (pag. 30.) because it was not minuted in the order in which it was first asked, viz. To whom do you *intend* to give credit, &c.

Sir Wm. Wynne said, that the question objected to by Mr. Friend, was not admitted by the Court, and was therefore not inserted in the Minutes.

Mr. Friend. I objected to Mr. Plampin as an evidence, because he had judged me on that very cause, without a hearing, in my own college. I mention this to shew how very defective the Acts of the Court were, which do not mention my objection.—I can prove it from private Minutes made by a friend.

Sir W. Wynne asked whether the objection had been recorded.

Mr. Friend said, that the objection was only in his Defence, and therefore could not be recorded.

The Court said, as the objection was not delivered to the Registry, that it was not before them now.

Mr. Lambert declared, that several Notes had been taken by him, which were not on the records of the Court.

The

Court. We cannot take notice of private minutes, which were not recorded by the Registry.

Mr. Frend. This is one of my Gravamina—But the Vice-Chancellor would not allow the Registry to take down what I ordered to be written—All the proceedings were irregular—And I cannot but observe, that it has been omitted in the minutes to say, that Mr. Marsh was called by the Promoter as an Evidence, but excused.

Dr. Kipling's Proctor here informed the Court, that Mr. Marsh, on being called as an evidence, had declared himself a near Relation and an intimate Friend of the Defendant, on which account his evidence was dispensed with by the Promoter.

The Court said, that as this did not appear on the minutes, the objection made by Mr. Frend, did not come before them.

Whilst Mr. Merrill's evidence was reading, Mr. Frend objected, that some questions were asked Mr. Merrill, by the Promoter, which were not minuted.—Such as, whether he ever sold a Book with the Appendices? in order to prove him the Author of "Peace and Union."

The Court asked, whether those questions were admitted? Mr. Frend answered, that they were over-ruled.

The first question being read in the evidence of Bowtell jun. (pag. 44.) Mr. Frend said, this question was a leading one, but the Prosecutors and the Court were of one and the same party, and therefore, this question was allowed, though a leading one.

A Question being read, (page 44, line 4 from the bottom) Mr. Frend asked the Registry whose question it was?

The Registry answered, I do not know.

Mr. Frend. I observe how little these minutes are to be depended on.

When the evidence of Harvey Alger (on being called a third time) was read, Mr. Frend objected to the calling and recalling of Witnesses.

Mr. Frend again repeated his objection to Dr. Kipling's having taken the original Minutes out of the Court, and said, he mentioned it now, because he should not be allowed to mention it when he came to sum up his Gravamina: He observed, that the Commissary expressed his surprize at the time it happened.

MR.

## MR. FRIEND'S GENERAL REMARKS.

Since the Evidence appears so imperfect, as it really is, this Court could not decide upon it, even if it had not been put into the Promoter's hands.

The Master of Trinity was absent part of the time—How could he, therefore, put his hand to the Sentence, when he must have gained his knowledge solely from papers which I have shewn to be defective; several material things having been omitted in the minutes, of which he could not judge: yet if he had not taken this upon him, he could not have joined in the Sentence.

It has been proved to your satisfaction, that the Judges and the Prosecutors made one and the same party, which will appear the more clearly from the Resolutions having been made at the house of the Judge himself.

The passage from the 29th page of "Peace and Union," being read, as in the Third Article (pag. 10.) Mr. Friend said, the passage in the Article, when compared with that, in the Pamphlet, was not the same, but much altered by the Promoter. This is what I stated at the time, but it is omitted in the minutes. This is another proof that the Master of Trinity could not form his judgement from them. When I made this objection to the Article, Dr. Kipling declared, that he did not make use of the words of the Pamphlet, because he did not understand what was meant by purity of arrangement and of language. Mr. Friend added also, that to say that the Liturgy was far from the standard of purity in one particular *only*, was very different from saying, that it was far from purity in three different particulars.

The Fourth Article was then read. (See pag. 10.)

I asked Dr. Kipling if he could prove the word *Idolatrous* to be in the passage alluded to in the Article—this is omitted in the minutes.

How could the Master of Trinity determine, that this was well-founded, when nothing was stated to him, that could give him certain information on the subject?—Dr. Kipling produced a Pamphlet said to be written by me four or five years ago, in which I had called the Church of England *Idolatrous*. The only proof beside was, that the Church of England is the great body of Christians.—The Master of Trinity was not present at so material a passage, and I therefore insist on the objection on that account.



Fifth Article was read. (See pag. 10.)

Here it was asked by Mr. Frend, where the passage was to be found.—He could not find it.—The word *hence* was omitted, the word *are* added. The Promoter had observed that it was the *same Passage* with an *Insertion* and an *Omission*. How could the Master of Trinity judge about this Case by reading the minutes?

The Case of Chark was brought to prove, that I might be cited into the Vice-Chancellor's Court, and the Master of Trinity might suppose my Case was parallel, from not hearing my objections.

Dr. Seale. Did not the Judge suffer every thing to be stated, which you expressed a desire to have inserted?

Mr. Frend. No: He ordered the Registrary to pay attention to him—not to me.

Sixth Article Read. (See pag. 11.)

It was out of my power to collect, what this charge might tend to accuse me of. Dr. Kipling left it to the determination of the Judges.—He turned the Court into a Court of Accusers, not of Judges.

Seventh Article Read. (See pag. 11.)

The Registrary was ordered to produce the Book of Degrees, to prove Mr. Frend's admission to the Degree of Master of Arts, at the next Court.

The Eighth Article Read. (See pag. 11.)

The Forty-fifth Statute was read—Mr. Frend said, that the Grace of 1603 could not be read, having no legal existence. The Court determined it might be read, subject to all exceptions, as it was read in the Court below.

The Proceedings and Evidence being read as far as to the Act of Court 13th of May inclusively; the Delegates adjourned the Court to a quarter past four o'clock in the afternoon of the same day.

## SECOND COURT.

UNIVERSITY  
OF  
CAMBRIDGE  
TO WIT.

Before the Right Honourable and Right  
Worshipful William Wynne, Knight,  
L.L.D. the Worshipful John Hey and  
John Barlow Seale, respectively Doctors  
in Divinity, and the Worshipful John  
Lane and Edward Christian, respectively Masters of Arts,  
Judges Delegates, lawfully constituted, in a certain Cause  
of

of Appeal or Complaint between William Frend, M. A. and Fellow of Jesus College, Party Appellant, and Thos. Kipling, D. D. Party Appellate, in the Law Schools of the said University, on Friday the 28th day of June, 1793, at a quarter past four o'clock in the afternoon of the same day.

Me present.

GEO. BORLASE,

Not. Pub. and Registr.

Business of Appeal } The Registry produced the  
between William Frend, M. A. } Degree Book to prove the admission of Mr. Frend to the Degree of Master of Arts.  
and Thos. Kipling, D. D. }  
Mr. Hodson's evidence was repeated, and the two Advertisements of the Pamphlet "Peace and Union" in the Cambridge Chronicle on the 9th and 16th of February, were read.

Mr. Frend's protest against the evidence in the Court below, was also read. Mr. Frend here observed, that the account in the minutes of the proceedings was a very imperfect account.

The proceedings in the Seventh Court were then read, when Mr. Frend remarked, that the order for Recantation was founded on the 45th Statute.—It does not appear to the Court that the Vice-Chancellor had the concurrence of the Heads in the opinion, that the 45th Statute had been violated, for the minutes only state the opinion of the Vice-Chancellor: But the Court has no account of the proceedings of that day. The Vice-Chancellor would not hear my remarks on the Form of Recantation, but absolutely refused to hear me in several instances, at times when I desired to be heard.

The Proceedings of the Eighth Court-Day were read.

Mr. Frend. I did not refuse to read the Recantation, till I had offered my reasons, which I began to read, but was interrupted by the Vice-Chancellor, who in an unexampled manner, and in very threatening language, refused to hear the reasons I was ready to give, why I could not read the Recantation.—I delivered a paper (which was received by the Vice-Chancellor) for the private use of the Court, and it was afterwards returned to me.

Sir W. Wynne. We have nothing to do with it, for no minute of it appears before this Court.

Mr. Frend. It makes a material part of my Defence.

The Proceedings on the Appeal, and the Inhibition of the Vice-Chancellor by the Junior Proctor on the first day of June, were read, and also the Oaths *De Gravamina*, and *De non Solicitando Delegates*.

Sir W. Wynne. We have now heard all that passed in the Court below, and we are ready to hear your complaint.

Mr. Frend. I presume that the Court has not heard all the papers read, particularly that of the Resolutions entered into, out of Court, by the Vice-Chancellor and Heads of Colleges, contrary to every principle of law.—This paper was read to me by the Vice-Chancellor in Court; it was also delivered to me for my inspection, and is very material in the cause.

Sir W. Wynne asked the Registry, what paper does the Appellant mean?

The Registry answered, that it had been given into Mr. Frend's hands in the Court below, and that he thought it was given back to the Vice-Chancellor, but that the paper never came before him as Registry.

Mr. Frend. It is a paper signed by the Heads, which is totally illegal.

Court. As the paper does not appear before us, it cannot be reckoned part of the evidence.

Sir Wm. Wynne then informed Mr. Frend, that the Court was now ready to hear his Gravamina.

Mr. Frend. I wish to produce my Gravamina on the next Court-Day.

Sir W. Wynne. We are ready now to hear you.

Mr. Frend. I did not expect, and am not prepared to bring my Gravamina on this day.

Sir W. Wynne. Upon what ground do you say, that you are allowed another day to bring your Gravamina?

Mr. Frend. I conceive that I am not held by the statutes, or practice and usage of the University, to proceed to my Gravamina till next Court-day, as appears from the Bedel's books, handed down from one to another; and from the authority of the 48th Statute, and from the interpretation of the 48th Statute, *Tempore Goade*.

Sir W. Wynne. These relate to Proceedings in the Vice-Chancellor's Court, which are directed to be according



ing to the Forms in Ecclesiastical Courts; and have no reference to Causes of Appeal.

Mr. Frend. These proceedings are to be the same as in the former Court, as appears from the 48th Statute, and from the interpretation I have quoted.

Sir W. Wynne. There is not any foundation for the Cause to proceed in that manner in this Court, the Grace "*De Causis Forensibus*," does not refer to those proceedings, but to Causes in the Vice-Chancellor's Court, tried in the forms of the Ecclesiastical Courts.

The Statute sets forth nothing to induce you to say, that you should not now bring your Gravamina.—On what ground, in point of justice, can you refuse to proceed now?

Mr. Frend. Because I did not come prepared—I had no means of information, but from the Statute and the Bedel's Book. I expected to hear nothing but the Declaratio Causæ, and that you would name a day, *ad proponendum in formâ*, when I should state my Gravamina.

Dr. Hey observed, that if the Delegates had sat as soon after the Vice-Chancellor's Sentence had been given, as the Laws of the University allow, Mr. Frend might then have reasonably asked for time to prepare himself.—But as three weeks or more had elapsed, since giving that sentence, Mr. Frend must be sufficiently prepared now, to produce his Gravamina.

The Court retired to consult.

Sir W. Wynne. You should have been prepared, from the abundant time you have already had. It is the earnest desire of the Court, to expedite this business as much as possible, consistently with justice.—We are, however, ready to indulge you, till to-morrow after the morning Congregation, but after that time we must proceed, without interruption.

Mr. Frend. I am afraid we cannot proceed to-morrow.—It is not a Dies Juridicus, being a Saint's-Day. I would regulate myself by law—

This was allowed in the late Trial—it having been observed by Dr. Yates, that the Court could not meet on Monday or Tuesday in Whitsun-week.

Dr. Yates was asked, whether he had any particular reason to think, that those days could not be Dies Juridici.—He answered No; and recommended the adjournment for no other reason, but because he thought it improper for

the Court to sit at a time, when a sermon was to be preached before the University.

Sir W. Wynne informed Mr. Frend, that the Court over-ruled his objection, and the Court was adjourned till to-morrow after the morning Congregation.

### THIRD COURT.

UNIVERSITY } Before the Right Honourable and Right  
OF } Worshipful William Wynne, Knight,  
CAMBRIDGE } L. L. D. the Worshipful John Hey and  
TO WIT. } John Barlow Seale, respectively Doctors  
in Divinity, and the Worshipful John  
Lane, and Edward Christian, respectively Masters of Arts,  
Judges Delegates, lawfully constituted, in a certain Cause  
of Appeal or Complaint between William Frend, M. A.  
and Fellow of Jesus college, Party Appellant, and Thomas  
Kipling, D. D. Party Appellate, in the Law-Schools of  
the said University, on Saturday the 29th day of June, be-  
tween the hours of twelve and three in the afternoon.

Me present.

GEO. BORLASE,  
Not. Pub. and Registr.

Business of Appeal } The Minutes of the Two Courts  
between } of yesterday were read; and in the  
William Frend, M. A. } latter, after the words, "he was  
and } not by the statutes," were inserted  
Thos. Kipling, D. D. } (by Mr. Frend's desire) the words,  
"or Practice and Usage of the Uni-  
versity."

Mr. Frend. It cannot be supposed, that in a cause like this, I can have any intention to give offence to the Delegates. I appear here, actuated by motives, such as I trust, would influence any other man. I am not standing here merely in my own defence.—I have to take care, that no other Member of this University, may hereafter suffer in consequence of my example. I was misunderstood yesterday concerning the 48th statute. I still protest against this particular mode of my appearance here, but wish to have it understood, that I do it with respect and deference.

I will read a Protest which I desire may be entered on the Records of the Court, that the present case may not be made a precedent in future cases of a similar nature.

PROTEST.

## P R O T E S T.

I WILLIAM FREN D, M. A. and Fellow of Jesus college, in the University of Cambridge, do hereby protest against my being called upon, to produce on this day, my Gravamina, in a certain Cause of Appeal now pending before Sir Wm. Wynne, L.L. D. John Hey, D.D. John Barlow Seale, D.D. John Lane, M. A. and Edward Christian, M. A. for the following reasons :

1. Because the Proceedings in all Causes of Appeal, must be directed either by the Statutes and Interpretations, or the ancient and constant Practice of the University : but the Statutes and Interpretations, are all silent as to the proceedings in Causes of Appeal, therefore there remains only an ancient and constant practice, by which they can be directed.

2. Because in certain Books called the Bedel's Books, the authority of which in matters of practice is always admitted, express directions are given for the Party Appellant, to specify his Gravamina on the *next Court Day* after that on which the cause has been declared.

3. Because by the Interpretation given by the Heads, Oct. 6, 1596, of the word *triduum*, it appears, that the next Court-Day can only be understood of the next court day, in the ensuing week.

W. F R E N D.

Signed in Court 29th June, 1793,

by W. F R E N D.

Me present.

G E O. B O R L A S E,

Not. Publ. and Registr.

Under this Protest, I am ready to state my Gravamina if you think it absolutely necessary.

Sir W. Wynne. We are unanimously of opinion, that you should now state your Gravamina.

## G R A V A M I N A.

My first Gravamen is, that the Prosecution is malicious. I call the Prosecution malicious, because the mode of proceeding is an instance of persecution unheard of.

First. Whilst the cabal were hesitating in what manner they should proceed, and even doubting whether they could punish at all, still their desire to punish remained fixed.—For at the first meeting of the twenty-seven, it was determined, that I should be prosecuted in the Vice-Chancellor's Court, on the Grace of 1603, in preference to  
the



the 45th Statute. At the second meeting it was determined, to proceed on the Laws of the University, without assigning any particular law. If there was so much difficulty in ascertaining the law I had violated, could they pretend to commence the prosecution upon conscientious motives?

Secondly. Some of the Charges brought against me were from real passages in the book; but from mutilating them and leaving out, not only words, but whole propositions, their meaning was totally changed. Thus I am accused of defaming the Church of England (page 29.) by affirming, that it is far from the standard of purity in Doctrine. Could any one, not actuated by the fiend of malice, say, that by these expressions, the Church of England was defamed? As well might it be said, that I had defamed the most beautiful woman in England, by not allowing her all the perfections of the Venus de Medicis—I might say, that such a woman was not comparable with the Venus de Medicis, in form, or in attitude, or in grace; but would it be infered that I had defamed her beauty, because I declared, that she was inferior in *some one* of these perfections?—In the same manner, were I to say of the Church of England, that it falls short of perfection, in some one or more particulars, it would surely be injurious to assert, that I had therefore, defamed it.

These are my two arguments in proof of malice, but I desire that this part may be argued, and that the Promoter may be called upon to explain his reasons for thus altering the passage.

Sir Wm. Wynne said, that it was not usual for the Appellate to make any reply, until the Appellant had produced all his grievances; and directed Mr. Frend to proceed.

My next Gravamen is, what I have mentioned before, that of having been cited into the Vice-Chancellor's Court, on the Statute *De concionibus*. My renunciation contains my reasons why I should not have been cited into that Court, in such a cause. The Vice-Chancellor had a very bad design in citing me in this manner, he did it that he might attack me on two laws at once.—He knew, or ought to have known, that no person had ever been cited into Court, merely for the offence alledged against me, on the statute "*De concionibus*;" and being aware that the Grace of 1603 had no existence, he saw that he might proceed

proceed on that with safety, and at last condemn me under the statute "*De concionibus*."

This is an instance of the greatest malice: besides, he had another end in view; to compel evidence on oath, which is not to be done on the statute "*De concionibus*," all the evidence would else have been *voluntary*. I have not heard of one voluntary witness, except the name of Kilvington, the *only* man who would have appeared in such a manner.

If any Justice of the Peace should undertake to prosecute a man at the assizes, and failing in his prosecution should punish him by his own private authority, would not this be illegal and malicious in the highest degree? In this arbitrary and malicious manner, has the Vice-Chancellor permitted me to be prosecuted, under a statute which could not be proceeded on in the Vice-Chancellor's Court.—The prosecutors were actuated by malice, and the Vice-Chancellor was equally malicious.

Another Gravamen which I labour under is this—Supposing me guilty as an academic, my offence, if any, should be punished by the proper officer, not by several persons who met to form a cabal, and especially as the resolutions were entered into at the house of the Judge himself. This is a grievance not to be paralleled—The cabal met in the house of the Judge—Let any man ask himself, whether such a procedure was just, and whether as an Englishman he could submit to it? Would you, Sir Wm. Wynne, have suffered a set of men to come into your house for such purposes? No:—I cannot think you would. No one member of the University, who was not of the twenty-seven, would have acted in so unjustifiable a manner. But the Judge and the Prosecutors formed one and the same party. After having stated these three Gravamina, it may be superfluous to mention any further objections against the process—It was begotten in malice, and ended in treachery.

You have heard read, what is called the proceedings in the Vice-Chancellor's Court. I declare that they are not so, but a very different thing, and unless the Registry had been corrected, no one could have formed any idea of the proceedings.—If they had been put into your hands, in the same state they were put into mine, you could not have understood them. My friend and myself worked six hours, in endeavouring to render them intelligible.

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My next Gravamen is, the irregularity of the proceedings in the Vice-Chancellor's Court; but I am precluded from insisting on this, unless I could call witnesses, which would be useless, as you must proceed on the minutes.—They contain no account of the calling and recalling the witnesses; in which intervals, the Promoter might have an opportunity of preparing and instructing them.

Another Gravamen is, that the depositions, after being taken down in writing by the Registry, were taken out of Court, and put into the hands of the Promoter—that very man, who had maliciously begun the prosecution, and who would willingly have done any thing, that might serve to carry his purposes into execution.

Another Gravamen is, that the Vice-Chancellor took upon himself to act on the statute "*De concionibus*," and on the Grace of 1603, without the consent of the other Judges. Of these Dr. Postlethwaite made one—He was absent during the whole time of the examination of the witnesses, how could he, therefore, form his judgement of the evidence?

Dr. Postlethwaite rose, and was going to speak in his justification.

Sir W. Wynne said, Sir, it is not necessary—Mr. Friend, you had better go on.

Mr. Friend. Dr. Postlethwaite having none of the evidence before him, it was a considerable grievance, that he should put his name to a sentence, on the authority of papers, which had been taken out of the Court, and given to the Promoter. But supposing that Dr. Postlethwaite had been present, and that the Court could have acted on the statute "*De concionibus*," that statute requires a Recantation. That which was proposed to me, was unintelligible; to prove it, I desire to submit to the consideration of this Court, a paper which I delivered in the former Court, and offered to read, but was deterred by the threatening language of the Vice-Chancellor.

The paper delivered to me, required me to retract nothing, for nothing was alledged. The first part was unintelligible. It can have no meaning "to confess error and temerity," where no error or temerity exists.—No charge of having offended against the 45th statute, was brought against me during the whole trial—The design was to enforce the Grace of 1603, not the 45th statute.

Sir



Sir Wm. Wynne. As this paper is not in the minutes of the Court below, it cannot be received by this Court.—We have heard it, and it will have such weight as it merits.

Mr. Frend. This is a much greater grievance than I supposed, for if you will not receive it, you also prevent this Court from judging concerning it. The Vice-Chancellor refused its being received, and did many other things contrary to the duty of a Judge.

My next Gravamen is this. The offence was supposed to be committed in February last: At the end of every term an Absolution is read; I pleaded this in Bar of Sentence, but the Vice-Chancellor treating the most sacred rites of the University, as many do, with contempt, rejected it.

The absolution was intended to prevent such cabals being formed in the University.—This cabal was formed by such men, as having no pursuits in literature themselves, endeavour to impede those who have—I know that this Absolution is held in contempt by the Promoter, the Sub-Promoters, and their familiars.

If it be derived from the Catholic religion, or from the Inquisition, still it is the established Law of the University. The thing in itself is good—a wise ordinance. If a man is to be tried, let him not be held in suspense—The refusal of the Vice-Chancellor to allow this plea, is a great aggravation of his offences against me, and an attack on the privileges of every Member of the Senate.

Another Gravamen is, that I was sentenced to banishment under the 45th Statute, which has no relation to Authors of Books. The words, "*aliter publicè*," cannot be applied to publishing a book, except by such as are unacquainted with the Law of the University. The Law-giver considered "*aliter publicè*," as some public maintaining of opinions, *infra Academiam*, therefore, printing a book in another county, cannot be said to be against the statute. I appeal to the opinion of a learned man in the Commons, which he gave, when consulted on a statute of Jesus College; in which college a few men had taken upon themselves, to treat me in an ignominious and arbitrary manner. He says, that all penal statutes are to be interpreted strictly, in a Court of Justice: and that, as the crimes mentioned in the statute of Jesus college, are all Crimes of Commission,

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mission, the expression "*quocunque alio*," must also relate to crimes of commission. In the same manner I argue, that as all offences, specified in the statute "*De concionibus*," relate to oral publication, the expression, "*seu aliter publicè*," must also be restricted to oral publication. All persons who maintain any public opinion against the established religion, by speaking either at Lectures, or in the Senate House, are liable to be punished under the statute "*De concionibus*."—I am accused by the Vice-Chancellor, of *temerity* in writing a Book. The Vice-Chancellor having taken upon himself to punish a man for *temerity* in writing a book, is an insult on the University.—Is it to be borne in a seat of learning like this, that any man should be so severely punished, merely for having the *temerity* to publish a Book?

In the book intitled "Peace and Union," it has not been shewn, that any thing has been taught contrary to the established religion: the proof brought by the Promoter being from garbled passages.

I here again refer to the opinion of a Civilian, who says, after perusing the pamphlet, "I find no opinion maintained, which could fix a stain on the Writer, in a legal sense, or in the Judgement *boni aut æqui Viri*." This Civilian is a person of great authority, and often consulted by the University.

If opinions contrary to the Church of England had been in the Book, and the statute had been violated, I ought to have been called upon to recant *some* Error; but I was with abominable insolence and absurdity, required to sign a Confession of my *Temerity*, in having written a Book. They ought to have specified the opinions I was to recant:—Instead of that, no Recantation was proposed—Why? Because the Judges—the Promoter—the Cabal had agreed, that I should be punished, before they met.

The first charge relating to the Liturgy, has nothing to do with the statute "*De concionibus*."—Had they put a fair recantation into my hand, I should have read it with ease, because, (as I have already declared) the Liturgy of the Church of England is the best of all established Liturgies. This is my opinion, formed upon *reading and examining* all Liturgies, not as the twenty seven and the Judges formed their opinion.

You see why this wicked and abominable paper was put into my hands—No man of letters would have signed it—No man could be so base a scoundrel, as to sign such a paper.

**Second Charge.** I am accused of charging the Worship of the Church of England, with Idolatry. I ought to have been called upon to declare, that I did not think the Worship of the Church of England, idolatrous. This then ought to have been the subject of Recantation, if the Judges and the Cabal had not previously determined that I should be punished. The charge is a lie, and therefore, they dared not to put such a Recantation into my hands.

The proof they gave of this charge was, from the passage "the public Worship of the Great Body of Christians, &c." (pag. 10.) Owing to the extreme ignorance of these wretched men, who, having read nothing but a few sermons on the Doctrine of their own Church, were not qualified to compare the Worship of different Churches—they have applied what is said of the great body of Christians, to the Worship of their own Church. But will any one say, that the Church of England associates the Worship of created beings, with the Worship of the one true God? If I had been asked at the time the Recantation was proposed, I would have readily declared, I do not maintain that opinion.

**Third Charge.** Ecclesiastical Courts, &c. (See pag. 10.) This I solemnly declare to be an infamous lie—I never said it—It is not said in the book. Let those men, who, in a scandalous manner, met at the Judge's house—Let those Judges, who put the Recantation into my hands, reflect on what I now declare—if they say, the words are so, it is an infamous lie! The Promoter said, that the passage is the *same*, altho' he allows that he *inserted* one word and *omitted* another.—Abominable Insolence! I plead for every Member of the University—I never maintained the opinion which the Judges and the Cabal have fixed on me. Had I said that all Ecclesiastical Ranks and Titles were repugnant to the Spirit of Christianity, why was not I called upon to recant this opinion?—Can stronger proof be brought of malice? This they would not do, because they knew I had no objection to make such a Recantation. Is this the conduct of a Judge?—Is it not that of men actuated by the most malicious principles? Is it not wickedness in the extreme? It is not the common wickedness of the lower class of people, hurried away by bad passions—but that deliberate wickedness of wretched men, intriguing for preferment, and actuated by a spirit of revenge. I have been accused of crimes I never committed. I was not called upon to recant: if I had



been called upon and had refused, I *ought* to have been banished.

The last charge (See pag. 11.) had no relation to the statute "*De concionibus*." The Promoter never brought one proof against me, that I had reviled the most sacred offices of Religion. If he had, what would have been the conduct of wise and good men? They would have asked me, will you recant this opinion? and the Recantation would have been built on the law I had offended. The Judges and the Cabal had determined before they came into Court, that I should be punished.—I from my soul believe, that some of the Judges had never even read the minutes of the proceedings. The Vice-Chancellor could not punish me, but on a refusal to recant my errors; I know of no opinion I maintain, which I would not give up; but I must be induced by argument, not by compulsion.

Another grievance is, that I was punished for writing and publishing a Book.—There is no instance upon record, of any one being cited into the Vice-Chancellor's Court, and punished upon the statute "*De concionibus*," for writing and publishing *only*—all the instances upon record relate to teaching *Vivâ Voce*.

Among all the accusations brought against me, it cannot be said, that I have ever called this an *enlightened* age. I can never allow this to be an enlightened age, when our Youth are taught to look up for instruction to such men as the Cabal: and to Judges, who could sign a pitiful paper, such as no man of Literature could write. But thanks be to God, there are only the Twenty-seven who laboured to shew themselves my Enemies.—I have had marks of Friendship innumerable shewn me from many Members of this University. I have said we are not all to be censured—We are not all Bigots and Fanatics—We do not all desire to introduce Inquisitions—I have met with particular countenance from Gentlemen of that profession whom I am supposed to have reviled. Indeed the greater part of my friends are Clergymen.—I am also indebted to many of the Law, Members of this University, who have expressed their indignation at the treatment I have met with. I conclude my Gravamina by asserting, that no person can be punished for only writing and publishing: had I been guilty of any breach of the statute, I might have been called on in a legal manner to recant.

RECAPITULATION.

## RECAPITULATION.

First. The Prosecution was malicious.

Second. I was cited into the Vice-Chancellor's Court, where I could not be cited under the statute "*De con-  
cionibus*."

Third. The Judge and the Prosecutors were one and the same party; the resolution to prosecute me, being made at the Vice-Chancellor's own house.

Fourth. No regard was paid to the taking of the evidence regularly in the Court.

Fifth. The minutes of the proceedings were taken out of Court, and submitted to the mutilations of the Promoter.

Sixth. The absence of the Master of Trinity precluded him from signing the Sentence, as he could not hear the observations I made, in the course of taking the evidence, and as the minutes did not give a true statement of the evidence.

Seventh. I was sentenced by the Vice-Chancellor to Banishment, without a proper or a fair majority.

Eighth. No Recantation was proposed—If any error had been specified, they all knew (except the Master of Trinity) that I would have signed the Recantation.

Ninth. The form proposed to me was insulting, improper, unreasonable, and unintelligible.

Tenth. The Vice-Chancellor refused to admit a paper which I offered to the Court, because it contained my arguments on this head.

Eleventh. I was accused of being the Author of a Pamphlet, whereas the statute, under which I am punished, says nothing of this mode of publication.

Twelfth. The Vice-Chancellor refused to admit my plea in bar of sentence. (See page 75.) He treated it with contempt.—We all know that he recommended to the young men, an attendance on religious exercises, but that he never attends them himself.

Thirteenth. I have not been proved to have taught, treated, or maintained in public, any thing contrary to the established religion. Let the Promoter write a book—Let him but write *another* book, and I pledge myself to answer it. This is the proper challenge between Men of Letters.—To the impartial eye of the public, I submit all my writings; let the Promoter do the same.

Fourteenth. If I had maintained the opinions alledged against me, a proper Recantation should have been offered me: but this was with-held, because the Judges knew I  
would

would have signed it. I publicly declare, that I maintain no such opinions—but this charge is only a proof of the Promoter's maliciousness.

Fifteenth. As writing a book is not an offence prohibited in the statute "*De concionibus*," so there is no instance of any person being punished under that statute, for that offence. No proof was given to the Court that the statute ever had been enforced in such cases, nor can it be proved to you from any precedents.

It is, therefore, a great grievance, that the Vice-Chancellor should have singled me out, to be punished under that statute.

I request that all these grievances may be taken separately into your consideration, and I desire that the Vice-Chancellor's Sentence may be totally reversed, as unfounded in law.—An Englishman is not to submit to any punishment, not authorized by law. I will never submit in this country, to any punishment whatever, be the consequence what it will, which is not authorized by law. If in any particular Court, I have not the advantage of being tried by a Jury, at least, I have a claim to be tried according to Law. Yes—I would rather stand a trial before any Jury, taken from any part of the world, than to be punished in this arbitrary manner, by a *puerile paper* given into my hand, by a Vice-Chancellor.—I am happy to know, that if I was to be punished by a Jury, it must be according to law.

The Sentence which has been pronounced against me, is not according to law.—A Recantation was never offered to me, because they knew I would have signed it.

I conclude with declaring, that I have been persecuted for many months past, not by men of learning, but by a Cabal of abandoned men, not regulated by Justice, but by hopes of preferment, and swayed by opinions of bigotry and fanaticism.

When Mr. Frend had finished his Gravamina, Dr. Kipling was called upon by the Court, and asked if he was then ready to reply.

Dr. Kipling declared, that he was ready to answer to interrogatories from the Court, but that he had heard nothing that day, which merited a reply; but he submitted the whole to the judgement of the Court.

The Court was then adjourned to sit after the Congregation in the afternoon of the same day.

FOURTH



## FOURTH COURT.

UNIVERSITY } Before the Right Honourable and Right  
 OF } Worshipful William Wynne, Knight,  
 CAMBRIDGE } L. L. D. the Worshipful John Hey and  
 To Wit. } John Barlow Seale, respectively Doctors  
 in Divinity, and the Worshipful John  
 Lane, and Edward Christian, respectively Masters of Arts,  
 Judges Delegates, lawfully constituted, in a certain Cause  
 of Appeal or Complaint between William Frend, M. A.  
 and Fellow of Jesus college, Party Appellant, and Thomas  
 Kipling, D. D. Party Appellate, in the Law-Schools of  
 the said University, on Saturday the 29th day of June, be-  
 tween the hours of six and eight of the same day.

Me present.

GEO. BORLASE,  
 Not. Pub. and Registr.

SIR WM. WYNNE ADDRESSED THE COURT  
 AS FOLLOWS:

WE have conferred together since the morning, and the Gentlemen with whom I have the honour to be connected, have unanimously commissioned me to give the Sentence I am about to pronounce.

The Cause was instituted at the promotion of Dr. Kipling.—The original was a Citation into the Vice-Chancellor's Court, for an offence against the laws of the University, and particularly the 45th statute. To this Citation Mr. Frend appeared on the 3d of May, before a Court consisting of the Vice-Chancellor and Eight Heads of Colleges, and the Commissary, as his Assessors; but he said that he was wrongfully cited\* into the Vice-Chancellor's Court, for a violation of the 45th statute.

The Vice-Chancellor pronounced for the authority of the Court, and very properly, in our opinion.

We find no foundation for Mr. Frend's assumption, that a Meeting of the Vice-Chancellor and the Heads, forms a distinct Court from the Vice-Chancellor's Court, either in the statutes of ELIZ. or in the Usage of the University. A new law does not make a new court.

By the 42d and 45th statutes, the Vice-Chancellor in certain cases cannot act without the consent of a majority of the Heads of colleges. This is a new regulation; but does not alter the process of the Court. Even if the statute

\* See Mr. F's. Renunciation, pag. 7.

had appointed assessors with equal authority, this would not alter the court.—The superior Courts of England have at different times consisted of different numbers of Judges, without altering the process. The Court of King's Bench, during part of the Reign of James the First, was composed of Five Judges, at other times there have been only Three.

In the Court of Chancery, the Lord Chancellor is the sole Judge, but in particular cases, he calls in some of the Judges to assist him. The Court of Admiralty in some cases, calls in Pilots of the Trinity-House to its assistance; and the Court of Delegates does the same, in Appeals from the Court of Admiralty. But this never was considered as making any alteration in the Court itself. In the present case, the Heads of Colleges, although joined to the Court, are in truth no part of it: the Statute expresses the difference, "*Cancellarii Jussu, cum assensu majoris Partis Præfectorum Collegiorum.*" It does not say, "*Cancellarii et majoris Partis Præfectorum jussu;*" but "*Cancellarii jussu cum assensu majoris Partis Præfectorum.*"

These words prove, that the Vice-Chancellor might have proceeded, without the presence of any of the Heads, to the very end of the cause.—No particular manner of assent is specified in the statute, and no person has a right to demand, on what mode of information the assent is founded. This takes all ground from the objection to the Master of Trinity. He assented to the sentence, and for the reason assigned, it was not necessary or essential, by the terms of the 42d, or the 45th statute, that he should have been present at all, during the hearing of the Cause.—In Mr. Frend's renunciation it is stated, that from the sentence of the Vice-Chancellor and the Heads, there can be no Appeal to the Senate.

It is odd therefore, that this opinion should be urged by him, who has actually appealed to the Senate, from a sentence of the Vice-Chancellor and Heads of Colleges.—The Vice-Chancellor over-ruled his renunciation, and in so doing, in the opinion of the Delegates, he did right.

After this objection had been set aside, the articles were read, and the Promoter was called upon to support the Second Article by Witnesses. (See pag. 12).

Mr. Frend objected to calling Witnesses till the *secundus dies juridicus*, and required time according to the Grace of 1609. The Vice-Chancellor answered, that the demand, as founded on the Grace, could not be supported; but thought it reasonable, that time should be allowed him, therefore, adjourned the Court for a week, from the third,

to

to the tenth of May. The Grace to which Mr. Frend refers, allows *in levioribus et ordinariis Causis*, to proceed in a less dilatory way. Now whether the cause is *levior et ordinaria*, or *longior, et altiore Examinationem requirens*, is left to the discretion of the Judge; and Vice-Chancellors, by virtue of this discretionary power, have of late constantly proceeded summarily, and heard Witnesses examined *viva voce*; which is at least as effectual and expeditious a way of coming at the truth, as the other.

The Appellant has no ground, in the opinion of the Court, to complain of want of time.—The Judge has no rule but his discretion and the long usage of the University. For no memory, as far as we have been able to learn, extends to a Cause in the Vice-Chancellor's Court, which has been proceeded in, by examination of Witnesses upon allegations and interrogatories, and subsequent publication.

When the Witnesses appeared, the Appellant excepted to the evidence of Mr. Lloyd and Mr. Kilvington, because they had signed certain Resolutions. (See pag. 4.) Had it appeared that these gentlemen had any private interest, or had they engaged for any costs to be incurred in the suit, they would have been incompetent Witnesses.

If there had been room for suspecting any quarrel or malice, that would not have rendered them incompetent, but would in some measure have diminished their credibility. Their having entered into the Resolutions, and signed them, was no ground for rejecting their testimony. Their indignation was not against the person, but the crime. Their evidence was impartial and clear. The same reply extends to Mr. Frend's objection to Mr. Mathew and Mr. Plampin—besides it is matter not before the Court, it is a bare suggestion.

Another objection urged by Mr. Frend is, that the original minutes of the Evidence, were delivered into the Promoter's hands, and therefore, have lost their authenticity. As the fact has not been controverted, we must consider it as a fact admitted. It appears also that copies were delivered to Mr. Frend, but at what time was not stated to the Court. The objection is founded upon a rule very essential in law, that evidence must not be communicated by any Officer of the Court, to any of the parties, before publication. If this had been a *close* examination, it would have been a grievous offence in the Registry, and might have quashed the proceedings. But here the evidence was taken down in the fullest and most deliberate



manner in Court: it therefore seems a very indifferent matter, in what way the Promoter came by it.—It was taken so slowly by the Registry, that any other person might have taken it down as well as he; the Promoter, or any of his friends. And as the Registry has declared on oath, that the minutes were not altered, the objection is of very little weight.

Other objections were made in reading the depositions—that the same Witnesses had been examined several times, and that *leading questions* had been put to them. It would certainly have been more regular, had the examination of each witness been finished at once. But it is not unusual in Common Law Courts, to call a witness a second time, by the leave of the Court, for it cannot be done without. I have known it done in Ecclesiastical Courts, where the depositions had been ill taken, by mistake of the examiner, and upon application to the Court, the witness has been allowed to be examined again after publication.

Mr. Frend has complained, that leading questions were proposed to the witnesses. The instance he produced was the question asked Bowtell sen. (You told the Court yesterday, &c. pag. 27.) This was no leading question, and was more proper than to hear the whole examination of that witness over again. Had the witness been examined as to the same facts a second day, he might have been tampered with in the mean time.

Some of the objections in point of regularity may be well-founded. The reply, is the inexperience of the person who conducted the prosecution, and I may add, I hope without offence, the inexperience of the Court. It would be a sad thing for this University, if they were practised in the proceedings of Courts; the Members of these Societies are much more usefully employed. If they proceed with due care and fidelity, with a strict regard to truth and the substantial ends of Justice, any objection in point of form will be treated, as in truth it ought to be, with very little regard. In all the depositions I have seen, I never observed less appearance of partiality or forwardness in Witnesses, to favour the party, by whom they were called.

Mr. Frend pleaded in Bar of Sentence, the Absolution pronounced by the Vice-Chancellor, at the end of the last term.

I think it will appear very evidently, when the occasion of that absolution, and the nature of the offences to which it refers, are considered, that the Vice-Chancellor justly  
dismissed

dismissed this plea, as being founded on very slight reasons.—The absolution relates to antient statutes now little known, which contain the punishment of Excommunication *ipso facto*, and it was introduced for the sake of tender consciences.

It relates to trifling offences, as appears from the words, “*absolvimus vos ab omni levi Negligentiâ, forisfactione, seu transgressione statutorum, &c.*”—but the Charges brought against Mr. Frend, are professedly of a grave Nature.

It has been this day urged on the part of the Appellant, that the Prosecution was malicious; and the Appellant took the liberty of speaking of the Promoter, and of many other persons of the highest Rank and the most respectable Character in this place, in terms which nothing but his present unfortunate situation, and the heat and agitation of his mind, could excuse. In charity to him, I hope, that when he comes to think on the violence and intemperance of his behaviour, he will be sincerely sorry for it. It is not the business of Courts to enquire into the motives of prosecutors—It is impossible to ascertain them. Courts must enquire into facts; after the fact is established, they must execute the law; the motive of the Prosecutor does not weigh a feather's weight in determining the guilt or innocence of the Defendant. The Court must convict, if the fact is proved, whether malice is suspected or not.

With respect to the fact, that Mr. Frend is the author, the title page declares him to be the Author: This goes indeed but a little way to prove it, yet it is a presumption, a *primâ facie* evidence, but requires confirmation from circumstances, to establish a legal proof.

Francis Hodson, the Printer of the Cambridge Chronicle, deposed, that he was applied to personally, by Mr. Frend, to insert in his paper, an advertisement, “This Day is published, Peace and Union, &c. by Wm. Frend.” That brings it home to Mr. Frend.—It does not leave much doubt. From Bowtell's evidence it appears, that a parcel, directed to Mr. Frend, and containing copies of this Pamphlet, was brought to his house, that it was opened there by Mr. Frend himself, who delivered several copies to Mr. Bowtell, to be sold for Mr. Frend;—that is a pretty strong fact. Next, the booksellers depose that they have given credit to Mr. Frend, in their books, for the copies they sold. It has been proved, that 20 copies were delivered by Mr. Frend at his chambers, as *his* Pamphlet, and for sale. The appendices were cancelled by Mr. Frend's order. A

kind of controversy was carried on betwixt Mr. Watson and Mr. Friend, by notes proved to be in Mr. Friend's handwriting, and in which he repeatedly calls the book in question, *his* publication, and the appendix concerning the price of wool, he calls the Appendix to *his* Pamphlet. This leaves no doubt that it was written and published by him, and he appears to have been much more instrumental and active in the distribution of it, than authors usually are.

We are next to enquire, whether it appears from the words of the statute, that an offence has been committed against the statute. "*Prohibemus ne quisquam, in concione aliquâ, in loco communi tractando, in lectionibus publicis, seu aliter publicè infra Universitatem nostram, quicquam doceat, tractet, vel defendat, contra Religionem, seu ejusdem aliquam Partem, in Regno nostro, publicâ autoritate receptam et stabilitam*". Now the modes expressed are preaching, common placing, lecturing; but the statute certainly extends further, "*seu aliter publicè doceat, tractet, vel defendat*." The only question is, whether publishing and printing a book comes under that description. It has been urged by Mr. Friend, that no modes of teaching, &c. can come within the words *seu aliter*, but such as are uttered *vivâ voce*, and are *ejusdem generis* with those which are distinctly mentioned in the statute *De concionibus*. But I do not apprehend, that it could be so maintained in the strictest way of interpretation, even of the statutes of the realm, much less of the statutes of the university which admit of a more liberal interpretation. We are here to consider the spirit of the statute: the intention of the founder, and the extent of the mischief it was intended to prevent. And it is certain, that publication by book, is more general than by word of mouth, and is in all respects more pernicious. Therefore if Mr. Friend's Pamphlet contains any matter prohibited in the statute, it is comprehended within the expression "*seu aliter publicè*."

Now the 39th page contains passages which sufficiently found the sentence we are about to give. "*Hence ecclesiastical Courts, ecclesiastical Ranks and Titles, ecclesiastical Dress, all repugnant to the spirit of Christianity*". It has been represented that the articles have not fairly expressed the meaning of the passage. By the context it must be determined what is the meaning, "*The Christian world has been divided into two parts, clergy and laity, distinguished both by dress and manners from each other. The clergy every where affect a superiority, and in consequence claim to be indulged with peculiar power and privileges.*"

"It



“ It was natural when this pre-eminence was once established in the minds of the degraded laity, that the clergy should get the countenance of the legislature, for the framing of laws, not only to preserve their own dignity, but to prevent the interference of the people in ecclesiastical concerns. Hence ecclesiastical Courts, ecclesiastical ranks and titles, ecclesiastical dress, all repugnant to the Spirit of Christianity.” In all rational, plain, common construction the sense put upon these words by the Promoter, is the true meaning of them, namely, that ecclesiastical Courts, ecclesiastical ranks and titles, ecclesiastical dress, are all repugnant to the Spirit of Christianity: consequently the party who has uttered these words, must be admitted to have uttered words, “*contra aliquem statum, auctoritatem, dignitatem seu gradum ecclesiasticum hujus regni,*” and has therefore uttered words against the statute “*De concionibus.*”

Again, “ The Laity like brute beasts sit tamely under this usurpation: a Man if a Priest or a Minister enters, is not a Master of his own House, he must not thank God for the Blessings of Providence at his own Table, he cannot pledge his faith to a lovely woman, without the interference of the Priest, his Offspring must be sprinkled by sacred Hands, and at Death he is not committed to his long home, without another spiritual Incantation.”

How Language could speak more plainly, how words could be uttered more injurious to the whole body of the Clergy of this Kingdom, than representing them as Tyrants and Usurpers, I do not know: or what words could tend more directly to irritate the Minds of the Laity against the Clergy, than comparing them to Brute Beasts, for submitting to their Usurpation. The person who uttered them must be considered as teaching the Laity, that they *are* brute beasts if they submit to this Usurpation.

The latter Part of the same sentence speaks of three of the most sacred offices of our Church in a contumelious and irreverent manner—Baptism, Marriage and Burial, all of which are directed by our Laws to be performed by a Person in Orders, and according to a Form prescribed by the Book of Common Prayer, which is enacted and confirmed by Act of Parliament. I do not see how words can be more directly against the words of the statute, “*Religionem seu aliquam ejus Partem, &c.*” We are therefore most clearly of opinion, that the Vice-Chancellor did right in determining that Mr. Friend had offended against the 45th statute.

The Appellant complains that he was not called upon to retract. But he was called upon in the most explicit Terms. "I William Frend, Master of Arts, and Fellow of Jesus College in the University of Cambridge, do acknowledge that by writing a Pamphlet entitled, &c." See pag. 73. The Ground of the Complaint is, that the Vice-Chancellor did not specify the particular Errors he was to retract. We are of opinion, that the Retraction offered him by the Vice-Chancellor was proper—he used the words of the statute "contra Religionem, &c. aut contra aliquem statum"—Mr. Frend had no right to dictate the Manner; the statute expressly says, that the Retraction must be made, "eo modo quo illi præscribitur"—

We are therefore unanimously of opinion, that in this and every other Part of the Proceedings, the Vice-Chancellor did right, and we affirm his sentence.

The Judges of this Court affirmed the Sentence of the Court below, as follows:

#### S E N T E N C E.

WHEREAS by Grace of the University dated the 14th June, 1793, William Wynne, Knight, Dr. John Hey, Dr. Seale, Edward Christian, M.A. and John Lane, M.A. were appointed Judges Delegates, in a certain Cause of Appeal or Complaint between William Frend, M. A. and Fellow of Jesus College, in this University, Party Appellant or complaining on the one part, and Thomas Kipling, D. D. Party Appellate and complained of on the other part:—WE, the said William Wynne, John Hey, John Barlow Seale, Edward Christian, and John Lane, having taken the said Cause into our serious consideration, after having examined the several proceedings had therein, before the Right Worshipful Isaac Milner, D. D. Vice-Chancellor of this University, which have been transmitted to us, and having heard the arguments urged by the Appellant in support of his appeal: Do, by this our definitive Sentence, pronounce against the said Appeal, made and interposed in this behalf; and that the Judge from whom the said cause

cause is appealed, hath acted rightly, justly, and lawfully.  
And WE do hereby affirm the Sentence pronounced by him  
in the said cause.

WM. WYNNE,  
JOHN HEY,  
J. B. SEALE,  
JOHN LANE,  
ED. CHRISTIAN.

Mr. Frend immediately declared his intention of appealing from this *unjust sentence*, and of carrying the Cause into the Court of *King's Bench*.

F I N I S.



case is appealed, shall be decided right, justly, and lawfully.  
And We do hereby affirm the sentence pronounced by him  
in the said case.

WM. WYNN,  
JOHN HEY,  
J. B. SEALE,  
JOHN LANE,  
ED. CHRISTIAN.

Mr. Friend immediately declared his intention of appeal-  
ing from this unjust sentence, and of carrying the Case into  
the Court of King's Bench.

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